

**Meeting of the Northern Ireland Legal Services Commission held  
on Thursday 20 August 2009 at 9.30am, Board Room, Waterfront  
Plaza**

## **MINUTES**

**Present:** Jim Daniell (Chairman)  
Breidge Gadd  
Fiona Donnelly  
Joe Donnelly  
Dr Jeremy Harbison  
Wilson Matthews  
Hilary McCartan  
Ronnie Spence

<b>NILSC:</b>	Paul Andrews	Interim Chief Executive/NICtS
	Theresa Donaldson	Director of Policy & Service Development
	Josephine Kelly	Director of Corporate Services
	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

**Apologies:** Les Allamby  
Miceal McCoy  
Gillian McGaughey

**In attendance: Sean Laverty, NIO (item 09/116 only)**

### **9.30 to 11.00 – Closed session of the Board**

The closed session concluded with the Board extending its thanks to Mr Gerry Crossan for his commitment and for the contribution he had made during what was a very challenging period for the Commission and welcomed the progress that had been made in developing the reform agenda and improving service delivery.

### **09/105 Apologies & Declaration of Board Members Interests**

105.1 It was noted that Joe Donnelly would join the meeting later.

105.2 There were no declarations of interests.

#### **09/106 MINUTES of 16 July 2009 Board Meeting**

106.1 The Minutes were agreed.

#### **09/107 Action Point Report and matters arising from the Minutes of 16 July 2009**

107.1 Audit Report on VAT Issues – It was noted that all audit reports would be submitted to the Board through the relevant Committee - it was agreed to remove this item.

107.2 Financial Forecasting – It was agreed to remove this item as it would remain on the main agenda under Financial Reporting.

107.3 Annual Reports and Accounts – Removal of this item was agreed as it would remain on the main agenda under Financial Reporting.

#### **09/108 Financial Performance – Summary Report**

108.1 The Director of Corporate Services introduced the report and confirmed that the finance section continued to forecast (on a monthly basis) the projected spend to the year end. It was noted that the summary report was being presented in a new style where the projected monthly spend that could be anticipated, with a higher degree of accuracy (largely covering normal business), was being separated out from other exceptional expenditure (such as VHCC's). The new presentational style was to develop a more accurate form of forecasting where the variances that were appearing month on month (due to the impact of the payments for exceptional cases) could be more easily identified. It was anticipated that this improved form of forecasting would assist HM Treasury negotiations. With the exceptional expenditure separated out, current projections suggested that normal business, to the year end, would cost around £98m.

108.2 The Board noted its concerns around sufficient funds being available for the current financial year; particularly noting that in-year pressures were starting to build much earlier than previous years with the first pressures likely to arise in November 2009.

108.3 The NICtS reported on a recent meeting with HM Treasury confirming that HM Treasury had a full understanding of the pressures facing the Commission. NICtS confirmed that the best case was that the Commission would have access to some additional funding through the winter supplementary process, but not before. It was also unlikely that any additional funding would be on a full value basis. Discussions were ongoing with the NI Executive and HM Treasury in respect of devolution funding which complicated the in-year discussions.

108.4 NICtS stressed the importance of profiling the Commission's projected expenditure to the year end as accurately as possible. NICtS confirmed that the new style of reporting should assist this process and allow for better planning of expenditure. NICtS also confirmed that the FMOB forum (at NICtS) and the

Principal Accounting Officer were fully appraised of the situation, so the exchanges between the Commission and NICtS were on the record.

108.5 Discussions took place around the Board's responsibilities to alert Ministers (both in Westminster and the NI Assembly) to the financial pressures that the Commission was facing this year. It was agreed that the Chairman should write to the Principal Accounting Officer advising him of the Board's responsibilities in this regard; alerting them to the shortfall/funding pressures on the legal aid fund. The Chairman also requested that the best possible forecast be made available for the September Board.

108.6 The Board further requested that the financial report brought to the next GPC should provide a more detailed explanation of the apparent reduction in civil legal aid expenditure during the last six months of the forecast.

**ACTION: The Chairman to write to the Principal Accounting Officer outlining the Board's concerns on funding to the end of 09/10.**

**The financial report brought to the next GPC to provide a more detailed explanation of the reduction in civil legal aid costs.**

**A further financial forecast to the year end to be brought to the September Board.**

#### **09/109 Funding for 2009/10 and CSR Period**

109.1 The contents of NICtS' letter of 28 July 2009 were noted. Discussion took place around the funding for the remainder of the CSR period – 09/10 and 10/11. It was confirmed that any staff changes in this year should be reflected in the 10/11 projections. NICtS requested up to date projections to be forwarded as soon as possible to allow this work to progress.

**ACTION: Projections for 10/11 to be forwarded to NICtS as soon as possible.**

#### **09/110 Grant-in-Aid Budget 2009/10**

110.1 Discussed at 09/109 above.

#### **09/111 Chief Executive Report**

111.1 Risk Management – The Board noted the report. It was further noted that the Corporate Risk Register would be refreshed and brought back to the November meeting. Following discussion, it was agreed that there should be greater integration of the Corporate Risk Register and the audit reports; with both of these better informing the Business Plan and assisting in the identification of the strategic risks within the Business Plan. The Interim Chief Executive advised that this was a piece of work that he intended to take forward.

- 111.2 Publication of Annual Reports and Accounts – The progress on the timetable for the publication of the annual reports and accounts was noted. Specifically, the 2005/06 accounts were at print, management commentary had been updated and incorporated for the 07/08 accounts which would allow a final audit by NIAO.
- 111.3 Transformation Programme and Programme Management – The report was noted.
- 111.4 Complaints/FOI Enquiries/Ministerial Enquiries – The Complaints Working Group had met recently and had made suggestions for improving current processes and developing management information – the Board was content for these to be presented to GPC in the first instance. It was considered this item should no longer be reported under the Chief Executive's report but rather as a main agenda item brought forward by GPC.
- 111.5 Pensions – This had been discussed at the closed session of the meeting.
- 111.6 Business Plan 2009/10 – Quarterly Review – The first quarter progress report was noted. The Interim Chief Executive was invited to review the Business Plan 2009/10 with a view to identifying key priorities/pressures. The Interim Chief Executive confirmed that he intended to do this at an early stage together with an initial review the Corporate Risk Register. The Interim Chief Executive advised that he was keen to speak with the Committee Chairs and would bring back his initial thinking on both documents to the September Board.

**ACTION: Complaints/FOI enquiries/Ministerial enquiries to become a main agenda item brought forward by GPC.**

**The Corporate Risk Register to be brought to the November Board.**

**The Interim Chief Executive to review the Business Plan and Corporate Risk Register for the September Board.**

#### **09/112 Extension of Managed Service Contract**

- 112.1 The Director of Corporate Services introduced the paper which outlined the proposal to extend the current BT Managed Service Contract by a further 12 months. The paper had been approved at GPC and had been submitted to the Board for ratification. The Director of Corporate Services confirmed that the Central Procurement Division, DFP had provided written confirmation that this extension was unavoidable and that NICtS had agreed to the extension.
- 112.2 The Board ratified the GPC proposal subject to the assurances provided above. The Board requested that NICtS be written to on the wider IT funding issues.

**ACTION: NICtS to be written to about wider IT funding issues.**

### **09/113 Life Sentence Review Hearings, Remuneration for Counsel**

113.1 The Director of Policy & Service Development advised that discussions were continuing with the Bar and an updated paper would be considered at the September AJC for submission to the September Board.

**ACTION: An update paper to be submitted to the September Board.**

### **09/114 Statutory Charge**

114.1 The Director of Policy & Service Development spoke to the associated paper which updated the options for the way forward, and included Counsel's opinion on retrospective application. Following discussions, the Board considered that further work was required to take this issue forward, including consideration of the financial and resourcing implications, and the impact on the reform agenda and service delivery; this work should also include the development of detailed project/implementation plan. The Board also considered that an estimate of the quantum involved would need to be available before the preferred option could be discussed with the NIAO. The project plan was essential to open up discussions with the NIAO on this matter.

**ACTION: Further consideration to be given to this issue including the development of detailed/implementation plan.**

**The Interim Chief Executive, the Director of Corporate Services and the Chair of the Audit Committee to lead on this issue with the NIAO.**

**Joe Donnelly joined the meeting.**

**Fiona Donnelly left the meeting.**

### **09/115 Update of Landscape Review Action Plan**

115.1 The Chairman introduced the paper; advising that the document had recently been reviewed by key Managers to update progress against the recommendations of the Landscape Review. The Board agreed to the approach that had been taken to update the Action Plan and asked for this to be done annually. The Chairman asked Board members to forward any comments to the Secretary to the Board for inclusion in the document. The Interim Chief Executive commented that he intended to take forward an exercise that would bring together the various action plans that were currently in place with a view to bringing a cohesive approach to the implementation of a range of action plans.

**ACTION: The Interim Chief Executive to lead on an exercise to bring together the various action plans that are being implemented across the organisation.**

**Sean Lavery joined the meeting.**

## 09/116 Devolution of Justice

- 116.1 Strand A, Due Diligence Exercise - Sean Lavery (NIO) introduced the Action Plan that had been developed on foot of the completion of the Due Diligence Report. Sean Lavery advised that the actions points and associated deadlines had been agreed with TMT and Managers across the organisation; the majority of actions were already in progress.
- 116.2 The Board noted its concerns about the achievability of some of the deadlines that had been set, noting that, historically, the Commission had set deadlines that were not achievable. Moving forward, the Board advised that it only wanted to consider documents and actions plans that had meaningful and achievable targets and deadlines. The Board considered that, given that the lead in time to devolution (when announced) would be finite, it would be important to prioritise the Action Plan into what was reasonably achievable. As noted above, the Interim Chief Executive re-iterated that there was a range of action plans (landscape review, audit recommendations etc) being taking forward across the Commission and in his view there should be a cohesive and co-ordinated approach to this work to maximise the possibility of success. The Board concurred with this view.
- 116.3 Sean Lavery acknowledged the Board's position but re-iterated the need, in his view, for the Action Plan, in its totality, to be implemented in line with the timescales identified; some flexibility was possible but, in his view, not to the detriment of progressing the reforms needed.
- 116.4 Following further discussion it was agreed that the Action Plan should be referred to the Committees in September for discussion and agreement and brought back to the September Board. Once endorsed by the Board, it was agreed that the Action Plan could be submitted to the Steering Group for consideration.

**ACTION:        The Action Plan to be referred to Committees in September and thereafter brought back to the September Board**

- 116.5 Strand B – The Chairman introduced the paper 'Review of the Structural Arrangements for the Delivery of Legal Aid' which had been developed as a discussion document for considering the delivery of legal aid in a devolved environment. The Chairman advised that the report would be considered by the Steering Group and, in due course, would be available to inform discussions with Ministers. The Chairman invited comments from Commissioners over the next couple of weeks to be sent to the Secretary of the Board. In discussion, a number of issues were identified for inclusion i.e. the importance of Commissioners representing a range of stakeholders and the public in general, the ability to link into the legal profession as an independent body, the reform agenda was concerned with social policy (not just about administering legal aid). Continuity was important, together with an evaluation of the difficulties that had been surmounted.
- 116.6 It was agreed that the document should be developed and put forward as a discussion document to the Steering Group.

**ACTION: Sean Laverty and the Interim Chief Executive to further develop the paper.**

#### **09/117 Internal Audit Reports**

117.1 Corporate Governance – The Chair of the Audit Committee introduced this report. The Board agreed that it raised a number of important issues which would inform the work being taking forward at paragraph 116 above. The Board noted the issues around the delineation of the role of the Accounting Officer and asked for this to be taken forward with the NIAO.

**ACTION: The Interim Chief Executive to take forward the issues around the role of the Accounting Officer with the NIAO.**

**Sean Laverty left the meeting.**

#### **09/118 Report from Committee Chairs on Issues and Matters Requiring Decision within the next few weeks and Risks**

118.1 Access to Justice Committee Report – The Chair of the Committee introduced the paper and reported that, across most civil and criminal areas, performance was maintained at a satisfactory level apart from Adjudication where the backlog was a concern. The Board noted the report.

118.2 Audit Committee Report – The Board noted the report. The Chair of the Committee reported that there had been an FOI enquiry with regard to Audit Reports and that he was meeting with the Director of Corporate Services and the Business Assurance Manager to discuss what progress had been made on the response.

118.3 General Purposes Committee – The Chair of the Committee reported on the general frustration at the time taken to fill posts across the Commission. The Chair of the Committee and the Director of Corporate Services were considering meeting with TUS to alert them to the negative impact this delay was having on this and next year's funding.

#### **09/119 Judicial Review Report**

119.1 The Board noted the report.

#### **09/120 Any Other Business**

120.1 Date of October Board Meeting – This has been changed to 22 October 2009 at 9.30am to accommodate the Chairman's and other officials' attendance at an external event.

120.2 Dates for GPC Meetings – The Chair of the GPC raised the issue of the timing of the GPC meetings up to the end of the year being too close to the Board meetings. The Director of Corporate Services and the Secretary to the Board agreed to look at the timing of GPC meetings when the 2010 schedule of Board and Committee meetings was being compiled.

**09/121 Date of Next Meeting – Thursday 24 September 2009 at 9.30am**

**Meeting ended at 2.30pm**

**SIGNED:** .....

**DATED:** .....