

**Meeting of the Northern Ireland Legal Services Commission held
on Thursday 21 January 2010 at 9.30am, Board Room,
Waterfront Plaza**

MINUTES

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

NILSC: Paul Andrews Chief Executive
Theresa Donaldson Director of Policy & Service Development
and Service Delivery (Civil)
Josephine Kelly Director of Corporate Services
Sheila McPhillips Director of Criminal Defence Services
Drusilla Hawthorne Principal Legal Adviser
Jill Herron Secretary to the Board

NICtS: Louise Laverty

10/001 Apologies & Declaration of Board Members Interests

1.1 There were no apologies and no declarations of interests.

10/002 Minutes of 17 December 2009 Board Meeting

2.1 The Minutes were agreed.

10/003 Action Point Report and matters arising from the above minutes

3.1 There were no matters arising.

3.2 The Board agreed to the removal of the following items:

09/126 (September 2009) - Business Plan 2009/10 monitoring

09/150 (November 2009) - Action Point Report and development of 2010 Schedule of Papers

09/151 (November 2009) - Business Plan 2010/11 monitoring

09/152 (November 2009) - Review of Corporate Risk Register

09/152 (November 2009) - Forward Look of key meetings

09/154 (November 2009) - Immigration and Asylum Contract

- 3.3 Schedule of Board and Committee Papers 2010 – It was agreed that the Chief Executive and the Secretary to the Board would use the Schedule to liaise with the Chairs on the management of papers throughout the year.

10/004 Financial Report

- 4.1 Forecasting - The Chairman advised that he would use his letter of 18 January and the Director of the Court Service's reply of 20 January as the basis for discussion. The financial information included at the Annex to the Chairman's letter was the latest information available following the recent meeting between the TMT, the Chairman and the Chair of the Audit Committee. This financial information had been shared at the (legal aid) Devolution Steering Group meeting earlier in the week, but it was important that the forecasts were validated by PwC (against their original forecasts with explanations provided for any divergence) before they were taken any further.
- 4.2 Before discussions began the Chairman invited the Board to note the quality of the financial information presented. The Board concurred with the Chairman's view and congratulated the Chief Executive, the TMT and all staff and managers involved for their hard work in developing the forecasting models to the current standards.
- 4.3 Contextually, the forecasting had been carried out against the assumptions that the devolution of policing and justice would take place (and therefore the Prime Minister's letter would still be applicable) and that the Graduated Fees Scheme would be fully implemented.
- 4.4 The Board noted that the forecasting figures suggested that there should be sufficient funding to meet the liabilities to the fund for the current year and 2010/11; however rolling forward into the next CSR period the figures suggest significant pressures. The Board asked for the range of actions outlined in Annexes B and C to be converted into a timetabled action plan (including achievable savings) for further consideration at the Board's Away Days in February - the NICtS should be asked to develop the programme of work for the reform of criminal legal aid.
- 4.5 The proposed VHCCS contingency fund was discussed. On balance, the Board agreed to the removal of the contingency fund from the projections as long as the commentary clearly stipulated that no allowance had been made for the potential for one or two wholly unusual cases to arise i.e. those cases that carry costs beyond anything that can be predicted.
- 4.6 It was agreed that, in the light of earlier undertakings, the Chairman would raise with the sponsor and the NIO the question of how and when the Assembly and

political parties should be informed of the revised forecast. Communication with stakeholders should also be addressed.

4.7 Following a detailed discussion the Board agreed to the following:

- the updated forecasts were a significant step forward;
- some further sensitivity analysis should be carried out;
- Commissioners were to retain visibility on the developing forecasts;
- the contingency fund to be removed now, but clarification in the commentary that no allowance had been made for wholly unusual case(s);
- the commentary should also advise that the forecasting was based on normal business pressures on the fund and did not allow for the impact of any troubles related/legacy type issues;
- the prioritised work programme should identify those reforms that require legislative cover and also identify the resource implications; and
- the prioritised work programme should identify short/medium/long term actions.

ACTION: The forecasting model should be developed in line with the work outlined for further consideration at the Board's Away Days.

4.8 In-year funding - It was confirmed that discussions continued with HM Treasury to secure the necessary funding to the year end. It was anticipated that this would be provided in two tranches and would be in the order of £17m to £18.5m. The NICtS was anticipating an early indication from HM Treasury on the value of the respective draw downs of cash; at this stage no disruption to the second payment run in January was anticipated.

4.9 GIA – This would continue to be carefully monitored to the year end. An under spend was still showing at December and consideration was being given as to how this could be utilised strategically and in a measured way; specific consideration was being given to increasing the investment in IT.

4.10 Work was on-going with the NICtS to have an agreed 2010/11 budget in place at 1 April. It was confirmed that a key planning assumption was that the sponsor would be seeking efficiency savings in the 2010/11 budget and beyond; work was on-going to identify priorities should this be the case. The Chairman reiterated the Board's requests that more detailed information be developed around the resource implications of the reform programme; this should include the impact on the resources across the organisation, including those business areas not directly impacted by the implementation of the various elements of the reform programme. The Chairman noted that if the reform programme was to be sustained and Annex B and C measures introduced in time to make an impact in the new CSR period, it was likely that this would lead to an increase in GIA expenditure, at least in the short term. The Board requested that this work be presented at the February Away Days.

ACTION: Work on the resource implications for the reform programme to be presented to the Board's Away Days.

- 4.11 Annual Report and Accounts - The draft 2007/08 Annual Report and Accounts would be presented to the Audit Committee in February. The draft 2006/07 Annual Report and Accounts had been sent to the NIAO. The 2005/06 Annual Report and Accounts were with the C&AG at the NAO.

10/005 Performance Against Objectives of 2009/10 Business Plan

- 5.1 The Board noted the performance report for the period April – December 2009; which included the service delivery performance report that had been considered at AJC. The Chief Executive sought the Board's views on the proposal to review the number and range of existing targets with a view to distilling them down into a tighter and more robust set of objectives and targets for the 2010/11 Business Plan. The Board supported this approach.

10/006 Memorandum of Understanding with the NI Human Rights Commission

- 6.1 The Chief Executive introduced the paper which sought Board approval, in principle, to the development of a Memorandum of Understanding with the NI Human Rights Commission. The purpose of the Memorandum is primarily to ensure that there is a common understanding of the process for determining which organisation funded certain types of cases. Consideration would also have to be given to the procedures that needed to be established to ensure that the agreement operated as intended. The Board gave approval for the drafting of the document to progress; subject to further details being worked through. The Chief Executive advised that a further draft would be brought to the Board in due course.

ACTION: The Chief Executive to bring back a further draft of the Memorandum of Understanding.

Josephine Kelly left the meeting.

10/007 Chief Executive's Report

- 7.1 The Chief Executive introduced his report and highlighted the following:
- Transformation Programme - Following on from the discussions at 10/004 above, the Transformation Programme would be reviewed against the range of actions identified at Annexes B and C of the Chairman's letter of 18 January. The revised programme would be brought forward to the AJC for endorsement to the Board.
 - Pensions – An update was provided in closed session.
 - Commissioners Remuneration and Tax Position - A response had been received from HMRC and Commissioners would shortly be written to on the matter.
 - Pace/Green Form – The Law Society had reacted positively to the proposal to increase the threshold from £200 to £1000 (i.e. the maximum amount which solicitors can claim for without seeking an extension of time). The Law

Society would be formally confirming their position; the Board confirmed it was content with this approach.

- Money Damages – A further meeting had taken place with the representative from Allianz Insurance Group and common matters of concern have been identified. A further report will be brought back to the Board through the AJC.
- Representation – The Chief Executive had been invited as a guest speaker to an event being held by the Judicial Studies Board; he would be speaking on criminal legal aid.

10/008 Devolution of Justice

- 8.1 The Chairman advised that an update would be available following the next meeting of the (legal aid) Devolution Planning Steering Group.

10/009 Report from Committee Chairs on Issues and Matters Requiring Decision within the next few weeks and Risks

- 9.1 Access to Justice Committee Report – The Chair of the AJC introduced his report and drew the Board's attention to the following items.

- Central Registry and Adjudication - Generally, the position across service delivery was positive; however two areas of concern to the Committee were Central Registry and Adjudication. The Chief Executive and senior management were reviewing the situation in both areas to develop options that would improve the processing of business. The Board welcomed the development of better business solutions for both areas and noted its continued interest to an early resolution of the issues in these areas.
- 2009 Criminal Court Rules - A smooth introduction of the Rules had taken place; feedback from the staff involved was positive.
- Performance against Business Planning Objectives 2009/10 – The Committee had been encouraged that TMT were reviewing the current set of objectives and targets with a view to developing more meaningful and robust targets for the 2010/11 Business Plan.

Les Allamby left the meeting for this item.

- Immigration and Asylum Contract - The AJC was proposing that the evaluation panel comprised the Chair of the AJC, the Director of Corporate Services, and the Director of Policy Development and Service Delivery (Civil). The Board endorsed the proposal.

Les Allamby rejoined the meeting.

- Transformation Programme Board – A key priority was the restating of the Statutory Charge Regulations with immediate effect; consultation with the profession would take place before the end of February 2010. The restatement of the regulations needed to be in place before 1 April otherwise the qualification on the annual accounts would roll forward into 2010/11. The Board was reminded that the restatement would not be applied

retrospectively but would only be applied to certificates issued after 1 April 2010. The Board noted the way forward.

- The Board were apprised of an anomalous situation that had arisen in relation to pension sharing; communication with the profession on this issue (before the restatement was made) was essential. In handling terms it was proposed to decouple this issue from the consultation and deal with it in a parallel strand of communication. The Board endorsed this approach but stressed the importance of communicating the changes with the profession in a timely fashion, given the imminent implementation date.
- Funding Code Consultation Exercise – The responses to the consultation exercise had been positive. Those from the Bar and the Law Society in particular had raised concerns around the future handling of money damages. The Chairman had written to both bodies to thank them for their positive replies and to invite nominations to work with the Commission and other key stakeholders in developing alternative arrangements for funding these cases in the future. The Chief Executive was asked to identify a dedicated resource to take this work forward.

ACTION: The Chief Executive to identify a dedicated resource to take forward the work on Money Damages.

9.2 General Purposes Committee Report - The Chair of the GPC introduced his report and drew the Board's attention to the following items.

- Absence Management – This long standing issue remained a concern to the Committee; a full report on absence management across the organisation had been requested for the March GPC meeting.
- Workforce Plan 2010/11 - Work was ongoing to bring a final position document back to the Committee; the TMT had been asked to consider the numbers and levels of staff below Director level.
- Training Strategy - The instigation of a training strategy for the organisation had been welcomed; a further paper would be brought to the March GPC.
- Delegated Budgets - The Committee endorsed the introduction of delegated budgets from 1 April 2010.
- Renewal of the Communications and Public Relations Contract –The current contract expires in April 2010. The Chief Executive advised that he would consider the options for delivering these functions more cost effectively.
- IT, Managed Services Contract - The Invitation to Tender documents were being finalised. The Board (at its meeting at the Away Days) would be asked to ratify the approach/re-tendering of the contract. It was confirmed that a contract of this size required Board approval.

9.3 Audit Committee Report - The Chair of the Audit Committee provided a verbal update as the most recent meeting of the Committee had been the day before.

- Yesterday's meeting was one of two meetings in the Committee's calendar dedicated to risk matters. The two issues considered were Project Management and Information Technology/Management Information. The Committee considered that the overall management of both of these significant exercises was good; however the Committee had concerns around

the overall risk management of each project which it considered were appropriate for referral to the Board.

- IT/MI Project – The Head of IT had given an excellent presentation to facilitate discussion and that had raised a number of significant areas of concern around: the capacity of the IT facilities to support the reform programme; the capacity of the IT/MI section to cope with the various strands of work, including the upgrading of the current software; and the need to train staff on the new processes. This work programme was significant against the backdrop of the re-tendering of the managed services contract.
- The Board concurred with the Committee's view that the management of the risks associated with taking forward the IT Strategy and supporting work programme were matters that the Board would wish to be kept informed on. The Board requested more clarity around the issues/risks that had been identified including the implications for the reform programme and the impact of the re-tendering exercise on any developmental work.
- Project Management -The Transformation Programme Manager also gave an excellent presentation on the approach to project management across the organisation. While it was apparent that the organisation had made significant improvements in this area, the presentation did identify a number of serious concerns regarding the levels of risk that were being managed; all of the projects that were on-going comprised a significant change management programme across the organisation with competing priorities and resource implications. It was also considered that the delivery of the IT strategy underpinned all of the various projects across the organisation.
- Again, the Board concurred with the Committee's view that it was appropriate for concerns around the overall management of the risks associated with the programme of work to be referred to it for consideration. The Board requested more clarity around the issues/risks and asked for the discussion to continue at the Away Days.
- It was confirmed to the Board that staff were not necessarily aware of the Causeway IT system that was being introduced across the criminal justice sector; it was agreed that lunchtime information seminars would be arranged.

Action: Further detail on the extent and management of the risks to both the IT/MI programme and Project Management across the organisation to be presented at the Board's Away Day.

A series of lunchtime information seminars for staff on the Causeway IT system to be arranged.

10/010 Legal Update

- 10.1 The January report was noted. The Chief Executive drew the Board's attention to two cases and provided an update on their current status.

10/011 Board Away Days, February 2010

- 11.1 Following discussion, it was agreed that the programme should focus on the strategic positioning of the Commission into the next CSR period and within a devolved setting. This would include discussion on the reform programme and

the role and purpose of the Commission. It was agreed that much of the programme would be dedicated to business planning to discuss the objectives, targets and reforms that would support the delivery of the 2010/11 Business Plan and beyond.

11.2 It was also agreed that discussions would include those reforms that have been identified to assist the Commission live within budget in the longer term e.g. reform of the statutory charge arrangements and proposals to reduce levels of legal representation at court. The Board emphasised the need for the reform of the appeals process to be concluded as quickly as possible.

11.3 The Chairman, Chair of AJC and Chair of GPC agreed to lead on the development of a number of short papers to aide discussions. These papers would be circulated to all Commissioners for contribution (if desired) in advance of the Away Days. The Chief Executive would develop a draft programme for Board approval.

ACTION: The Chairman, Chair of AJC and Chair of GPC to lead on the development of a number of short papers which would be circulated to all Commissioners for contributions.

The Chief Executive to develop a draft programme for Board approval.

10/012 Any Other Business

12.1 There were no outstanding matters for discussion under AOB.

10/013 Date of Next Meeting – A short session of the Board will be held at the Away Days on 25/26 February 2010.

Meeting ended at 12.30pm and was followed by a closed session of the Board.

SIGNED:
CHAIRMAN

DATED: