

**Meeting of the Northern Ireland Legal Services Commission held  
on Thursday 22 October 2009 at 9.30am, Board Room,  
Waterfront Plaza**

**MINUTES**

**Present:** Jim Daniell (Chairman)  
Les Allamby  
Fiona Donnelly  
Joe Donnelly  
Breidge Gadd  
Wilson Matthews

**NILSC:** Paul Andrews Interim Chief Executive  
Theresa Donaldson Director of Policy & Service Development  
and Civil Service Delivery  
Josephine Kelly Director of Corporate Services  
Sheila McPhillips Director of Criminal Defence Services  
Jill Herron Secretary to the Board  
Rose Jellie Personal Secretary to Chairman and  
Chief Executive

**NICtS:** Louise Laverty

The Chairman opened the meeting by reporting that the Chair and Vice Chair of the General Purposes Committee had requested the postponement of its October meeting, given that it was currently scheduled for Monday 26 October 2009, (three working days after to-day's Board). The Board agreed that it was more sensible to re-schedule the meeting for early November.

The Chairman also noted the extent of the work that was on-going across the Finance Section to provide information in relation to the current funding situation; the Board recorded its thanks to all involved.

**09/135 Apologies & Declaration of Board Members Interests**

135.1 Apologies were recorded for:

Dr Jeremy Harbison  
Hilary McCartan  
Miceal McCoy  
Gillian McGaughey  
Ronnie Spence  
Drusilla Hawthorne, Principal Legal Advisor

135.2 There were no declarations of Board Members Interests.

## **09/136 MINUTES of 24 September 2009 Board Meeting**

136.1 The Minutes were agreed.

## **09/137 Action Point Report and matters arising from the Minutes of 24 September 2009**

137.1 Item 09/115 (August 2009) Landscape Review Action Plan – It was confirmed that this had been merged with other action plans and this would be used to commence work on the Business Plan for 2010/11.

137.2 Items removed from the Action Point Summary – The Board noted its satisfaction at the number of items that were recommended for removal due to the progress that had been made in the respective areas. The Board agreed to the removal of the following items:

- 09/99 (16 July 2009) - NILSC Change Programme – Action Plan
- 09/108 (20 August 2009) - Finance Performance – Summary Report
- 09/109 (20 August 2009) - Funding for 2009/10 and CSR Period
- 09/111 (20 August 2009) - Chief Executive's Report – Complaints, Corporate Risk Register, Review of Business Plan
- 09/112 (20 August 2009) - Extension of Managed Service Contract
- 09/113 (20 August 2009) - Life Sentence Review Hearings – Remuneration for Counsel
- 09/114 (20 August 2009) - Statutory Charge
- 09/115 (20 August 2009) - Landscape Review Action Plan
- 09/116 (20 August 2009) - Devolution of Justice – Strands A & B papers
- 09/128 (24 September 2009) - Report on Law Centre Contract
- 09/129 (24 September 2009) - Devolution of Justice- Strand A & B papers
- 09/132 (24 September 2009) - Judicial Review Report

## **09/138 Financial Report**

138.1 Devolution Funding – The Chairman introduced the letter from the Prime Minister to the First and Deputy Minister which set out the funding settlement that would be available for legal aid on devolution of policing and justice up to, and including, 2012/13. The Interim Chief Executive outlined the key points of the funding agreement which comprised an additional £20m to the baseline for each of the three years up to 2012/13. To meet additional pressures over the next two years, including pressures in the Courts, a further £12m was agreed on a one off basis. If however, the pressures exceeded the £12m payment, as well as the increase to the baselines, further funding would be available from the Reserve Fund up to a maximum of £39m<sup>1</sup>. The Commission would also have access to EYF over the 3 year period which would not be recouped.

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<sup>1</sup> It has subsequently transpired that the letter from the Prime Minister was misinterpreted. The £12m was not additional but was part of the extra £39m that was being made available.

- 138.2 The Board noted that the settlement was tied to the devolution of policing and justice and considered that the quantum set out in the Prime Minister's letter had to be made available whether or not devolution occurred. The Board also noted that while the funding allocation on devolution would probably be ring-fenced, the organisation would be subject to any efficiency savings in the GiA allocation that the Assembly might set for the public sector.
- 138.3 The Interim Chief Executive confirmed that the current funding pressures, and the need for access to the level of funding outlined in the Prime Minister's letter, was acknowledged by the Court Service, and HM Treasury was being pressed on the matter. It was noted that the Commission needed immediate access to additional funding to support the November payment runs. The Board requested that the Chairman write to the Court Service on the current financial situation while simultaneously briefing the profession.
- 138.4 Following discussion, the Board agreed that the funding settlement should be sufficient to sustain the Fund through to 2011/12 but only if the planned cost saving measures as set out in the Reform Agenda were realised. It was noted that some aspects of the reform agenda would need to be brought forward in advance of the full reform agenda, if the Commission was to live within the 2013/14 settlement. The Board re-iterated the importance of monitoring and forecasting (across the Fund and GiA) to the effective management of the financial situation.

**ACTION: The Chairman to write to the Court Service and brief the profession on the current financial situation.**

- 138.5 Grant-in-Aid – The Director of Corporate Services introduced the Financial Performance Report advising that two main pressures on the GiA were the rent review and exceptional staff costs. On the rent review, discussions were on-going with the Landlord and with the Land and Property Services (DFP). The Interim Chief Executive advised that the revised rent was considered to be excessive; however the Commission could not afford to 'buy out' the contract. The Land and Property Services had also advised that the Lands Tribunal were unlikely, in the event of a referral from the Landlord, to support the Commission's position of refusing to meet the higher rent. In that scenario the Commission would also face costs. The Land and Property Services had advised that there was room for negotiation on the costs of maintenance work to the air conditioning and this was being pursued with the Landlord. The Board agreed that a formal proposal should be submitted to the next Board meeting for consideration. The position with regard to exceptional staff costs was noted.
- 138.6 The Director of Corporate Services also reported that she had written to the Court Service seeking confirmation that the funding allocated for the IT budget would be ring-fenced.

**ACTION: A formal proposal on the Rent Review to be brought to the next meeting of the Board.**

- 138.7 Annual Report and Accounts – It was reported that a representative from the National Audit Office (NAO) had attended the Audit Committee meeting on 21 October 2009. The NAO were committed to publishing the 05/06 and 06/07 annual report and accounts before the end of 2009. The NAO representative had agreed to return in early November to meet with the NI Audit Office officials to progress matters; particularly to develop a plan to address the qualifications in the accounts. Progress on this exercise would be reported back to the Board through the Audit Committee.
- 138.8 Forecasting – The Interim Chief Executive advised that work was progressing with the Court Service to identify a series of projected business trends. The Board noted the approach being taken and asked for the exercise to include information on legacy funding trends.

**ACTION: The forecasting exercise to include information on legacy funding trends.**

### **09/139 Chief Executive's Report**

139.1 The Interim Chief Executive introduced his report:

- Business Priorities 2009/10 – mid-year progress had been reported at the last Board and a key priority was to begin work on the business plan for 2010/11.
- Risk Management – A new risk register had been presented to the Audit Committee and would be brought to the November Board meeting.
- Transformation Programme – the Programme Board minutes would now be shared with the Chair of the AJC; a key issue was the capacity/development of the IT system to support the reform programme. A report would be brought to the November AJC and thereafter to the December Board.
- Funding Code Consultation – the consultation period was now closed although a few extensions for late replies had been approved. The seminar at the Law Society had been well attended. A key issue arising was Money Damages; further consideration would take place internally to explore the options available. Update reports would be provided in due course.
- Registration Scheme – the Working Group had commissioned a piece of work which would present a proposal for moving this forward with the profession. Further reports would be brought to the AJC in the first instance.
- Rationalisation of Action Plans (cross reference item 137.2 above) – the timescales within the action plans had now been reviewed by TMT and the Landscape Review and Due Diligence Action Plan had now been amalgamated. Progress against the action plan would now be reported to the GPC and AJC.
- Pensions – The Board noted the position.
- Civil Fees JR – The Commission and the Law Society had been in correspondence and the sponsor department was being kept informed of developments.

**ACTION: Transformation Programme - A report to be brought to the November AJC and thereafter to the December Board.**

- 139.2 Internal Audit/Annual Assurance – A progress report was tabled and noted by the Board. Moving forward the key issue was to reduce the number of limited assurances. It was agreed that further internal audit reports would be brought back to the Board by exception. Future reports would be considered by GPC and AJC.
- 139.3 Submission of Policy Papers to the Board – Following discussion it was agreed that all policy papers for submission to the Board would be cleared by TMT and then brought to the Board via the relevant committee; this was with the exception of situations where policy papers had to come to the Board as a matter of urgency and time did not permit the clearing of the Committee structure. At committee the paper would be introduced by the Interim Chief Executive/Director. At the Board the paper would be introduced by the Chair with the Interim Chief Executive/Director speaking to the detail of the paper. Routine progress reports would be covered in the CE's Report.
- 139.4 Fixed Fees for Non Crown Court – It was noted that the introduction of the new fees had gone smoothly.
- 139.5 Cultural Survey – The Interim Chief Executive reported on his recent meeting with the Pacific Institute and advised that a more detailed update would be provided at the next GPC.
- 139.6 Joint Consultative Committee Conference - The Chairman provided the Board with an update of the annual conference that he had attended with the Interim Chief Executive and Director of Policy & Service Development and Civil Service Delivery. The conference had been extremely informative and the potential to consider a number of issues on a cross jurisdictional basis had been identified; with particular emphasis on the sharing of data/management information. A key issue that had emerged was the need for capital spend on IT to allow real progress to be made on reform, including online services. The Interim Chief Executive advised that the IT Strategy Board had been re-configured and progress reports would be brought forward through TMT.
- 139.7 It had been agreed that the Chief Executives would meet on a quarterly basis. The Interim Chief Executive advised that the Chief Executive from the Irish Legal Aid Board would be visiting him in November. It was also noted that the Commission would be hosting next year's event.
- 139.8 Community Legal Services – It was confirmed to the Board that a member of staff had not been dedicated to lead on this work due to staff resourcing pressures in the policy section. The post however was listed on the recruitment schedule but, as yet, the exercise to fill this post had not commenced.
- 139.9 Due Diligence Action Plan – As stated above it was confirmed that the timelines had now been re-considered by TMT and the revised deadlines were achievable. The Action Plan was approved by the Board for release to the Steering Group subject to amendments at action points 19 and 20.

## **09/140 Devolution of Justice**

- 140.1 The Chairman reported that the meeting of the Steering Group scheduled for 16 October had been postponed until mid November. The Strand B paper would issue with the Strand A paper to the Steering Group.
- 140.2 Strand C – The Chairman introduced the draft paper which set out the options for reducing expenditure on legal aid. Following discussion the Board requested further work on the content before the paper issued to the Steering Group. Specifically, it was noted that the paper should be confined to methodology to be adopted, rather than focusing on potential cost cutting measures.

**ACTION: Further work to be carried out on the Strand C paper before it issued to the Steering Group.**

## **09/141 Report from Committee Chairs on Issues and Matters Requiring Decision within the next few weeks and Risks**

- 141.1 Access to Justice Committee Report – The Vice Chair introduced the report which was noted by the Board. The Board agreed to the proposed fees to be paid in committal proceedings. The Board also noted Counsel's opinion in respect of Green Form to the effect that the Commission's approach to decision-making in Green Form cases was not likely to be the subject of a successful challenge. It was noted that the opinion has stressed the importance of completing review cases that had been the subject of appeals and of conducting a review of the scheme. It was noted that these actions had taken place. More generally performance across all areas of service delivery was good.
- 141.2 The Board noted the details of the Advice Services Alliance Conference in November.
- 141.3 Audit Committee Report (cross reference 139.2 above) – The Chair gave a verbal update on the meeting that had been held the previous day. The Board noted the update 'the Annual Assurance report 08/09 – follow up actions'. TMT were currently considering the management letter and a full report would come to the December Board. It was anticipated the exercise to consider all outstanding audit recommendations would be completed by February 2010.

**ACTION: A further report on the letter of assurance and progress across internal audit reports (by exception) would be brought to the December Board.**

- 141.4 General Purposes Committee – The Board noted the report. The Director of Corporate Services reported that in relation to Debt Recovery work was ongoing to implement the findings of an Internal Audit report.
- 141.5 51 Week Contracts - The Board noted the recommendation in relation to staff employed on a 51 Week Contract.

**09/142 Judicial Review Report**

142.1 The Board noted the report.

**09/143 Corporate Governance of the Board**

143.1 Discussions were carried out in closed session.

**09/144 Any Other Business**

**09/145 Date of Next Meeting – Thursday 19 November 2009 at 9.30am**

**Meeting ended at 1.30pm**

**SIGNED:** .....

**DATED:** .....