

**Minutes of the Plenary Meeting
Held on Thursday 21 April 2016
Third Floor Board Room,
Headline Building, Victoria Street, Belfast**

Present: The Right Honourable Sir Declan Morgan, the Lord Chief Justice of Northern Ireland (Chairman)
Mr Brian Coulter
Mr Eoin Doyle
His Honour Judge Kinney – joined the meeting at 11:35am
Mr James McNulty QC
District Judge (Magistrates' Courts) Rosalie Prytherch
Mr Alastair Rankin – left the meeting between 11:50am and re-joined at 1:30pm
Professor Nichola Rooney
The Honourable Mr Justice Stephens – left the meeting at 12:30pm
The Right Honourable Lord Justice Weatherup – joined the meeting at 11:15am

In Attendance: Mrs Mandy Kilpatrick (Chief Executive Officer (CEO))
Ms Adeline Frew
Mr Andrew Millar
Miss Nicola Quinn (Secretary)

1. Apologies

Mrs Breidge Gadd and Mr Lindsay Todd.

2. Conflicts of Interest

No conflicts were identified.

3. Confidentiality

The importance of confidentiality was stressed.

4. Minutes of meeting on 25 February 2016

Mrs Kilpatrick requested an amendment to the update under the Lesson Learned Report for Charity Tribunal Ordinary Members to read;

‘The main issue arising related to the application form not providing a specific section for applicants to show how they met the eligibility criteria in relation to charitable experience.’

An amendment to the update in relation to Character Issues of Precedent was also agreed to read;

‘Following discussion Plenary endorsed the current practice that eligibility on the grounds of nationality would be determined as at the date and time of closing to applications.’

Mr Rankin requested some grammatical amendments to the minutes.

Plenary approved the amended minutes.

Commissioners confirmed that they were content with the actions arising which have either been progressed or will be addressed on the substantive agenda.

The readout from the Strategic Planning Session on 25 February 2016 was approved by Plenary.

5. Chief Executive’s Report

Mrs Kilpatrick presented her report to Plenary.

2015/16 Business Plan Objectives

Mrs Kilpatrick presented an update on the detail provided on the Business Plan Objectives and advised that there were no areas of concern across NIJAC’s four key performance areas with all objectives achieved with the exception of one target that was partially met. This related to the timetable for the High Court Judge Scheme which bridged the 2014/15/16 period.

2016/17 Business Plan

Commissioners were referred to the 2016/17 Business Plan which had been updated to reflect feedback received. The Department of Justice had commented on the need for collaborative work on Terms and Conditions and the Department for Social Development commented usefully on specific targets and dates. The Business Plan has also been approved by Colm Shannon, head of NIJAC's sponsor unit in the Office of the First Minister and Deputy First Minister (OFMDFM).

Discussion took place around the 90 days target for the completion of the assessment from the advert date and whether or not this would be appropriate for both NIJAC and Crown appointments. It was confirmed that this target has been benchmarked and is the same as that used in the Judicial Appointments Commission for England & Wales (JAC). It was agreed the detail of the measure would be further considered by Business Committee.

ACTION:

- Business Committee to consider the detail of the Key Performance Indicator (KPI) target set and report back electronically to Plenary.

2015/16 Financial Position

The total expenditure for the year to 31 March 2016 (as at 7 April 2016), including spend on items of a capital nature, was £972k against a budget of £981k, resulting in an under spend of £9k. While a number of estimates are still outstanding we are currently within tolerance.

2016/17 Budget

NIJAC have received confirmation of a 4% cut to the budget and not the anticipated 5.7%; OFMDFM have advised that this is as a result of the savings made in 2015/16 and their appreciation of the inherent pressures as a result of the accommodation costs. OFMDFM have assured that they recognise the importance of securing a long term permanent solution.

Risk Register 2016/17

The Senior Management Team (SMT) met on 25 March 2016 to develop the 2016/17 Risk Register which included consideration of the 2016/17 Business Plan objectives to identify any risks.

The following main changes were identified:

- Headline Accommodation and the impact on the budget – this risk has been removed temporarily. The tenants on the First Floor are due to stay until September at the earliest (previously May/June) and the 2016-17 Budget cut was less than anticipated.
- Any risks which may be attributable to a delay in the appointments process have been amalgamated under one risk.
- The loss of experience on the Commission as a result of a 3 lay Commissioners leaving over the next 15 months has been added as a risk.

The other aspects of the Risk Register were reviewed and actions required and controls in place were agreed by Commissioners.

Enhancing the Effectiveness of the Corporate Governance of Public Bodies in the Northern Ireland Public Sector

Commissioners were referred to an executive summary of the research undertaken in 2014 into Enhancing the Effectiveness of the Corporate Governance of Public Bodies in the Northern Ireland Public Sector. This research will be reviewed in conjunction with the Commissioners' responses to Board Effectiveness Questionnaires and reported back to Plenary.

Policies

Mrs Kilpatrick advised that Mr Justice Stephens will present the revised Renewals Policy and Disclosure Certificates Policy later in the agenda for approval.

Policy Committee have approved further standardisation of documentation, namely Appointments and Renewals reports.

Policy Committee also reviewed the Recording of Interviews paper, originally submitted to November 2015 Policy Committee. The use of a note taker and/or recording was discussed, the majority of Commissioners considered the disadvantages outweighed the advantages and the recommendation was not carried forward.

Policy Committee have approved the continued use of Written and Verbal Case Studies but re-branded as 'Situational Judgement Exercises' and have agreed that role plays should be retained as an approved assessment method for appropriate salaried schemes within the 'final assessment' stage of the selection process. These decisions were approved by Plenary.

Ms Kilpatrick advised that there is not a written policy on the use of indicators, however Plenary previously approved the Selection Committee Interview Guidance, which provides areas for a 'model answer' or 'Positive/Negative Indicators' as appropriate. Plenary confirmed that this is sufficient and no formal policy is required as the practice has long been the default position. Ms Kilpatrick advised that the various indicators across the tiers will be drawn together and in due course be considered by SART.

ACTION:

- SART to consider the bank of positive/negative indicators across the tiers.

Working with Others

Ms Kilpatrick confirmed that following extensive work and testing, the new NIJAC website has launched without issue.

Justice Committee

Ms Kilpatrick referred Plenary to the summary of considerations from the Justice Committee meeting on 10 March 2016 where they considered the Judicial Appointment Process in Northern Ireland. Plenary noted that the Justice

Committee considered that there is merit in undertaking a review of judicial appointments policy and procedures, noting it as a priority for the next mandate.

Flexible Working Group

Ms Kilpatrick advised that the Flexible Working Group met on the 22 February 2016 to discuss the draft policy. A reworked draft policy will be reissued electronically to the group. It was also agreed that the Northern Ireland Courts and Tribunals Service, Office of the Lord Chief Justice and NIJAC would develop flexible working models for the court tiers to share with the group. The current scheme for District Judge (Magistrates' Court) is being advertised advising that flexible working may be considered for appointments.

Staffing

Interviews have concluded for the direct recruitment of Deputy Principal (DP) Assistant Director Judicial Appointments Team and a successful applicant identified; pre-appointment checks are underway.

In anticipation of the Finance Director's secondment ending, a secondment for a DP Accountant has been initiated.

Commissioners

Ms Kilpatrick confirmed that OFMDFM launched a recruitment scheme for Lay Commissioner appointments on Friday 8th April. The panel includes Ms Kilpatrick, Colm Shannon and Robert Bannon, a Public Appointments assessor.

It was noted that as Mr McNulty and Mr Rankin are due to step down in June 2017, it will be timely at the next meeting of the Joint Liaison Committee to raise the Judicial Appointments Ombudsman observation for the Bar Council and Law Society to consider widely advertising the opportunity to serve on NIJAC.

Commissioner Training

Ms Kilpatrick advised that the evaluation from the recent bespoke training on interviewing and providing feedback has been very positive. Ms Kilpatrick advised Plenary that the trainer had expressed that NIJAC is an exponent of best

practice, in terms of information provided to applicants, the approaches and work of the Selection Committee's and the provision of feedback to applicants, plus the compilation and consideration of Lessons Learned reports.

A suggestion for consideration was to substitute 'will' with 'will endeavour to' in policies which was approved by Plenary.

ACTION:

- 'Will' to be substituted with 'will endeavour to' in policies.

6. Selection Committees

- **Lessons Learned Report: County Court Judge**

Lord Justice Weatherup presented the Lessons Learned Report for the recent County Court scheme which was noted by Plenary. It was noted that the scheme was successful in identifying a successful applicant and a reserve list.

Plenary considered the ordering of events in the context of the interview following the role play (based on previous feedback) and were content that sequence should continue.

Following the recent Plenary decision that a senior staff member should attend the moderation session, it was agreed at the last meeting that a senior staff member would attend the moderation session for the County Court Judge and Criminal Injuries Compensation Appeals Panel (CICAP) Adjudicator (Lay Member) schemes, to review whether it might be more appropriate to agree that a senior staff member should be available if required by the Selection Committee. Lord Justice Weatherup and Eoin Doyle confirmed that for those recent schemes, whilst it was useful to have a staff member in attendance at some points during deliberations, it would be a more efficient use of their time, that they should only be available to be called upon if required by the Selection Committee.

ACTION:

- For future schemes, a senior staff member to be available to attend the moderation session should it be required by the Selection Committee.

- **Current Scheme Updates:**

CICAP Adjudicator (Lay Member)

Mr Doyle provided an update on the CICAP Adjudicator (Lay Member) scheme in Mr Todd's absence. Interviews have now concluded and a successful applicant has been identified and is currently undergoing pre-appointment checks.

The matter of lawyers applying for and being occasionally appointed to 'Lay' roles was again raised. It was confirmed that with the exception of Lay Magistrates, there is no statutory bar on lawyers applying for and being appointed to 'Lay' roles, as long as they meet the relevant eligibility criteria. Eligibility criteria for 'Lay' roles is either set in statute or the responsibility of the employing department e.g. Department of Justice (DOJ), it was therefore agreed that NIJAC would bring it to the attention of the DOJ (as the largest employer) that there has been an increase in lawyers applying for and occasionally being appointed to 'Lay' roles.

ACTION:

- NIJAC to bring it to the attention of the DOJ that there has been an increase in lawyers applying for and being occasionally appointed to 'Lay' roles.
- In future 'Scheme Updates' to Plenary the target date for appointment is to be included.

District Judge (Magistrates' Courts)

Mr Coulter provided an update on the District Judge (Magistrates' Courts) scheme in the absence of Judge Kinney. Mr Coulter advised that the scheme is currently open to applications with a closing date of 3 May 2016. To date there

have been 93 application downloads, 47 applications in progress and 1 submitted.

Pensions Appeal Tribunals (PAT) Medical Members

Mr Doyle provided an update on the PAT Medical Members scheme. The pre scheme meeting was held on 14 April 2016 and the assessment and selection methodology was confirmed. The scheme is due to advertise on 26 April 2016 with a closing date of 23 May 2016.

7. Character Issues of Precedent

There has been one scheme during the period where issues have arisen resulting in four decisions relating to issues of character and one decision in relation to eligibility on the grounds of Years Standing. Mr Justice Stephens presented his report outlining the detail of these and advised Plenary that full copies of his decisions were available upon request.

8. Committee Annual Reports

Audit & Risk Management Committee (ARMC)

The Corporate Governance in Central Government Departments: Code of Good Practice (NI) 2013 requires that the ARMC should report annually on the work of the Committee in discharging its responsibilities and Mr Doyle presented this report to Plenary in the absence of Mr Todd, Chair of the Committee. Mr Doyle outlined the work that has been undertaken by the Committee in the past year and advised that it is the view of the ARMC that NIJAC has effective governance, risk management and control processes in place that are adhered to. Mr Doyle also noted the three substantial assurance ratings from Internal Audit that were achieved by NIJAC during the reporting period and he commended the work of the Executive Team, specifically Ms Catherine Shields, Finance Director.

Business Committee

Mr Rankin outlined the work that has been undertaken by the Committee in the past year including monitoring financial performance against the Budget to ensure our effectiveness and the appropriate use of public funds and development of a Stakeholder Engagement Strategy.

Mr Rankin confirmed that it is his view as Chair of the Committee that much has been achieved in the past year.

Policy Committee

Mr Justice Stephens outlined the work that has been undertaken by the Committee in the past year noting in particular a number of policy reviews including the Complaints Policy and accompanying Guidance for Investigators; the Feedback Policy and the Conflict of Interest Policy. These policy reviews have included ceasing the use of Consultees, and only accessing References for County and High Court judge recruitment. The Reserve List policy is now two, reflecting appropriately different approaches to fee paid and salaried offices.

Mr Justice Stephens confirmed that it is his view as Chair of the Committee that much has been achieved in the past year.

9. Audit & Risk Management Committee

Mr Doyle provided an update to Plenary on the recent meeting of the ARMC in the absence of Mr Todd. He advised Plenary that the Committee had reviewed the risk register and noted in particular the impact of losing experienced Lay Commissioners. Mr Doyle also advised Plenary of the relevance of a number of Dear Accounting Officers letters that had been received, one in relation to Guidance on Activity/Event Sponsorship and Partnership Marketing and another in relation to the Annual Theft and Fraud Report 2014/15.

10. Policy Committee

Mr Justice Stephens presented the minutes of the last meeting on 8 March 2016 which were noted by Plenary. Mr Justice Stephens advised that the Information Commissioners Office have offered to provide bespoke training to the NIJAC Executive Team and a date has been confirmed.

Two Policies were presented to Plenary for their review and approval: Renewal of Appointment Policy and Disclosure Certificates Policy. Both Policies were approved by Plenary.

11. Senior Appointments Review Team (SART)

Professor Rooney provided a verbal update on the meeting of SART held on 6 April 2016.

Consultation will be issuing shortly with the relevant stakeholders in relation to the following;

- Personal Profile for County Court, including preceding narrative;
- Narrative preceding the Personal Profile for High Court; and
- Use of References for County Court and High Court.

The relevant stakeholders will also be advised that all assessment methodologies are available for use in senior appointments.

Consultation will close 16 May 2016 and SART will meet again in June to consider the responses. A verbal update will be provided to Plenary's meeting on 2 June 2016.

The issue of using a 'dry run' of interviews was referred to SART from Policy Committee for consideration at the meeting on 6 April 2016 and it was agreed that they may be availed of should a Senior Appointment Selection Committee deem it appropriate.

ACTION:

- Verbal update on consultation responses to date to be provided to Plenary in June 2016.

12. Sub-Committees' Report to Plenary on the planned actions agreed following an analysis of the learning associated with the High Court Judge Scheme 2014

Plenary noted the report presented outlining the status of the planned actions agreed following an analysis of the learning associated with the High Court Judge scheme 2014. All actions are either complete or on track for delivery within identified timeframes.

13. Timeous, Efficient & Effective Appointments

NIJAC must ensure that any vacancy in a listed judicial office is filled except for vacancies that the Lord Chief Justice agrees may remain unfilled. Plenary used the afternoon session of this meeting to review the appointment process and available alternatives to help provide sufficient judicial provision to ensure ongoing access to justice, should there be a delay to an appointment.

The Chairman led discussion by working through the scheme process and identifying risks to a timeous appointment, potential actions and contingency. This was an interactive session with Commissioners referencing the applicable policies and procedures to recommend and decide on the best course of action when any given situation may arise.

ACTION:

- Further consideration of Contingency at June Plenary

14. Any Other Business

The Chairman advised Commissioners that he received a letter from Karamjit Singh CBE, thanking the Commission for their hard work and efficiency during his time as Judicial Appointments Ombudsman.

15. Date and Agenda of next meeting

Thursday 2 June 2016 at 9:30am

Signed

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The Right Honourable Sir Declan Morgan, the Lord Chief Justice of Northern Ireland, Chairman of the Northern Ireland Judicial Appointments Commission

Dated

...02 June 2016.....