

Plenary Minutes
3 March 2022 at 9.30 am
(Offsite)

Present: The Rt. Hon Dame Siobhan Keegan, the Lady Chief Justice of Northern Ireland (Chairperson)
Mr Eoin Doyle QFSM
Mr Colm Donaghy
Mr Paul Douglas
Mrs Maureen Eccles
Mr Justice Horner
Ms Noelle McGreenera QC
Mr Brian McTeggart
Judge Miller QC
District Judge (Magistrates' Courts) Rosalie Prytherch
Mr Michael Robinson
Lord Justice Treacy

In Attendance:

Mrs Tonya McCormac
Mr Raymond Donnelly
Ms Adeline Frew
Mr Duncan Greer
Mr Andrew Millar

1. Apologies and Introductions

1.1 No Apologies were received.

1.2 The Chair welcomed everyone to the meeting

2. Conflicts of Interest

No conflicts of interest were declared regarding any of the items included on the agenda

3. Confidentiality

The Chair reiterated to all the need for confidentiality to be maintained.

4. Minutes of meeting of 2 December 2021

4.1 The minutes were approved, subject to rewording to be agreed by the Chair of ARAC of item 8.2 relating to Code of Conduct for Commission members. It was confirmed that all actions points arising had been completed or would be covered in today's Agenda.

5. Chief Executive's Report

5.1 Mrs McCormac reported on overall organisational performance against targets referring to the Strategic performance dashboard.

5.2 Members expressed high levels of concern and frustration at the lack of action or resolution in upgrading the failing heating system in Headline. Mrs McCormac advised of the current actions being taken by TEO and of the need to have full completion of any heating repairs before Autumn 2022. It would present significant challenges for all tenants to use Headline building during another winter period without heating.

Mr Greer give an update on the rent review, advising of the need to make provision for at least a 78% increase in 2022/23.

Members expressed their concern about rental increases being considered at a time when the building was not fit for purpose, with inherent health and safety implications for staff and potential liabilities to NIJAC as the employer. This included risks arising from current temporary heating arrangements. Mrs McCormac advised that an interim Health & Safety Assessment has been undertaken but now recommended a full review.

The suggestion of temporary accommodation was debated given the lead time to effect repairs and the disruption to office working during that period. Mrs McCormac advised that this was currently being considered by all involved and will continue to form part of ongoing discussions. An issues log has been developed and NIJAC will continue to track and monitor this risk as part of their Corporate risk management approach.

Members were concerned about the fundamental legal issues relating to the potential

breach of contract by the landlord and considered that the Commission should now seek independent legal advice on this. Mr Greer advised that he understood TEO had established a position through the Departmental Solicitor's Office (DSO) on the potential breach of contract.

Action Arising. It was agreed that appropriate legal services should be engaged to directly advise the Commission on the lease for Headline, the heating issue and the responsibilities of the Commission as an employer. Mr Greer to follow up on this with Mr Justice Horner who could support Mr Greer on this matter.

Action Arising. The letter from DSO to the landlord on the heating issue to be shared with Board members.

5.3 Mrs McCormac also drew the Board's attention to some development opportunities for the Board linked to the Collective leadership model based on NIJAC's organisational values. She advised that the whole staff team, as part of embedding a values based culture, was currently participating in a leadership development programme underpinned by NIJAC's values and the expected behaviours associated with these. Mrs McCormac noted the need for all to live and behave in line with agreed Organisational values. She also advised that NIJAC's second stakeholder satisfaction survey was due to close on 7 March 2022. This survey had been developed around NIJAC's core values in 2021 and this year some additional questions have been introduced linked to NIJAC's high-level outcomes developed as a part of the Outcome Based Accountability (OBA) approach.

Action Point: Raymond Donnelly to organise Leadership/ values training session for Commissioners.

5.4 Mrs McCormac advised Commissioners that on 8 March 2022 Mr George Wilson from the NI Centre of Competiveness would be delivering a training session to the SLT on Quality Management to develop and support NIJAC's approach over the next few years.

5.5 Members noted the projected underspend at 2021/22 year-end will be greater than the 1.5% of budget permitted by TEO. The breach of the 1.5% limit is attributable to an over-allocation by TEO and the Department has acknowledged the resultant out-turn versus budget position is outside of the control of NIJAC.

Action Point: Mr Greer to ensure he has communication from TEO confirming the position on the over-allocation for 2021-22 and he should ensure the Annual Report and Accounts for 2021-22 includes an explanation of this.

5.6 Mrs McCormac advised of a likely delay in signing off the NIJAC Annual Report and Accounts for 2021-22 until autumn 2022 due to the resignation of the First and Deputy First Ministers and the Assembly elections.

6. Selection Committee Scheme updates

6.1 An update paper for each scheme was presented.

6.2 Judge Miller provided an update on the District Judge (Magistrates' Court) Scheme.

6.3 Mr Robinson provided an update on the Victims Payment Board (VPB) Legal Member Scheme.

6.4 The Chair provided an update on the High Court Judge Scheme.

6.5 Mr Donaghy provided an update on the VPB Ordinary Member Scheme.

6.6 Mr McTeggart provided an update on the Pensions Appeal Tribunal Medical Member Scheme.

6.7 The Chair extended her appreciation and thanks to all members of the Selection Committees and the NIJAC staff who support these Committees for all the dedicated work in running these competitions.

7. Advisory Committee

7.1 The draft Minutes of 27 January 2022 were presented.

7.2 Review of Conflicts of Interest Interview

A paper was presented to Members by the Committee which proposes a revised approach to considering a possible conflict of interest for potential appointees for judicial office. The proposed approach would employ appropriate and targeted

escalation of the potential conflict of interest with initial consideration by Judicial Appointments Managers and then further escalation as needed to the Director of Appointments & Communications, to the Chief Executive and then to the relevant President/ Tribunal Chair before if necessary requesting the NIJAC Chair to make a final determination.

Action Point: The Board approved the use of the revised approach on the Conflicts of Interest Interview with immediate effect.

7.3 Draft Terms of Reference for review of Medical Schemes

Members were presented with a report outlining the Draft Terms of Reference for the review of Medical Schemes. A wide consultation of NIJAC partners and representatives of key groups and individuals will be integral to the review with findings and recommendations to the Committee by September 2022.

8. Business Committee

8.1 Mr Doyle presented the draft Minutes of 25 January 2022.

8.2 Dates of Board and Committee Meetings 2022/23 were noted.

8.3 Mr Donnelly updated on the introduction of Hybrid Working for staff from 4 April 2022, setting out the background, rationale and benefits of this employment initiative. Mr Donnelly explained how it was the experience of most employers during the pandemic that much work could be done from home, and that affording more flexibility to staff in this regard, led to improvements in business outcomes. This is now becoming a mainstream employment practice across the economy. Mr Donnelly highlighted the checks and balances to ensure that NIJAC's business interests remain the driver for this initiative and how these interests will always take precedence.

8.4 With reference to the Corporate Risk Register the Chair highlighted the importance of NIJAC having a robust approach to Cyber Security. She requested that the Board be given a regular update on the steps being taken including working with IT Assist, independent Healthchecks and Awareness Training for Commissioners and staff. Mr McTeggart proposed that Cyber Security could be added as a Standing Item

for the Audit and Risk Assurance Committee (ARAC) to consider and this would provide a regular reporting route on this through to the Board.

Action Point: Cyber Security to be added to the ARAC Agenda as a Standing Item.

9. Audit and Risk Assurance Committee

9.1 Mr McTeggart presented the draft minutes of the 8 February 2022.

9.2 The Board noted that there were no issues to highlight.

10. NIJAC Disability Survey 2022

Ms Frew presented the results of the Disability Survey conducted by NISRA on behalf of NIJAC. Commissioners were asked to note that the survey shows that the serving judiciary is reflective of the community with regards to disability. Members indicated that conducting these type of independent surveys was very valuable in demonstrating the outcomes of NIJAC's work and it was agreed that the Disability Survey should be carried out every 5 years.

11. Tripartite Conference

Mr Millar provided an overview of the forthcoming tripartite event on 4 March 2022 including the agenda and discussion areas on which NIJAC Commissioners would be leading.

Members discussed the variable practices around the UK jurisdictions in relation to taking up references for judicial appointments and the purposes for which they are sought. It was agreed to bring this forward for discussion at a future Board meeting following the Tripartite event, when members have had a fuller discussion with representatives of the other organisations.

12. Any other business

12.1 Post Retirement Appointment of Mrs Eileen McBride. Members did not raise any issues with the Business Case approved and submitted by the Department for Employment for the Post Retirement of Mrs Eileen McBride.

12.2 Ms Frew updated the Board in respect of a DOJ request that was approved by Plenary in June 2022, to be the body to make 'sitting in retirement' appointments. These will come into being later in the year as part of the reforms to the 2015 pension schemes, which will also see the mandatory age for retirement for all judiciary move to 75. NIJAC currently operates a Post Retirement Policy open to all substantive judicial office holders who wish to retire early, and their application is supported on business grounds.

Early drafts of the 'sitting in retirement' scheme, which will apply to those eligible for a judicial pension, appears more limiting than NIJAC's policy e.g. it is stating that the sitting in retirement appointment may be for up to two years, or age 75, whichever is earlier. Nothing is yet confirmed, and the DOJ are leading on the devolved response.

The Chair indicated that there were a number of potential changes on the horizon that might impact judicial appointments and Members would be kept updated.

Date of next meeting: 28 June 2022 at 9.30 am

Signed: 

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The Right Honourable Dame Siobhan Keegan, the Lady Chief Justice of Northern Ireland, Chair of the Northern Ireland Judicial Appointments Commission

Dated: 28-06-22