



NIJAC

*Northern Ireland Judicial
Appointments Commission*

**Minutes of the Plenary Meeting
Held on Thursday 9 March 2017
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
Mr Paul Douglas
Ms Marion Matchett
Mr James McNulty QC
District Judge (Magistrates' Courts) Rosalie Prytherch
Professor Nichola Rooney
The Honourable Mr Justice Stephens
Mr Lindsay Todd – joined the meeting at 11:00am

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

1. Apologies

Mr Alastair Rankin
The Right Honourable Lord Justice Weatherup

2. Conflicts of Interest

No conflicts were declared.

3. Confidentiality

The importance of confidentiality was stressed.

4. Minutes of meeting on 1 December 2016

The minutes of the meeting on 1 December 2016 were approved.

The Chairman noted that the majority of actions arising were complete and the rest were addressed in the substantive agenda.

5. Chief Executive's Report

Mrs Kilpatrick presented her report to Plenary.

Mrs Kilpatrick advised that two data breach incidents have occurred in respect of two different schemes during the period. Both instances have been reported to the Information Commissioner's Office (ICO) and in one case the ICO has subsequently confirmed that the incident does not meet the criteria for formal enforcement action. We are awaiting the outcome of the second incident.

Mrs Kilpatrick assured Plenary that appropriate action has been taken in order to prevent any similar occurrences and the Quality Assurance process is also being adapted and enhanced further. Both incidents along with remedial action taken are reported on through Audit & Risk Management Committee and Business Committee.

2016/17 Business Plan Objectives

Mrs Kilpatrick presented a verbal update on the detail provided on the Business Plan Objectives and advised that subject to one matter all objectives are on track for delivery.

The objective 'Effective plan for transition of Judicial Appointments Ombudsman (JAO) responsibilities' requires adjustment as no draft Service Level Agreement (SLA) has been provided as originally planned. Plenary discussed the important aspects of working with the JAO including agreeing the speed at which the JAO processes NIJAC complaints, and establishing a fast track route as they do for some health related complaints. Commissioners highlighted the potential risk of delay to the appointments process should a complaint be received before this fast track process is agreed and implemented. Plenary asked the Chief Executive

to write to the JAO to seek an update and Ms Kilpatrick confirmed the matter would also be considered in the next review of the Risk Register.

ACTION:

- Letter seeking update on agreed working arrangements to be issued to JAO.
- Next review of the Risk Register to consider potential risk of delay in the appointments process should a complaint be received before a fast track process is agreed and implemented with the JAO.

2016/17 Risk Register

The 2016/17 Risk Register was reviewed in light of the potential impact of the current political situation on the appointment of Commissioners. It was noted that, in addition to an existing judicial commissioner vacancy, NIJAC will lose a significant number of Commissioners; namely two legal, one lay (June 17) and two judicial (Sept 17) which could compromise NIJAC's ability to recommend and appoint members of the judiciary in Northern Ireland and thereby deliver its statutory duties. Commissioners considered the Controls in Place in relation to schemes is the use of co-opted experts but that it may be more difficult to manage Committees and ensure quorum. It was agreed the planned review of the Standing Orders was an appropriate and necessary action.

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

ACTION:

- Reviewed Standing Orders to be presented to April Business Committee, and then June Plenary.

Budget Update

2016/17 Budget Position

Mrs Kilpatrick advised that we are currently on track to remain within tolerance for the 2016/17 Financial Year.

2017/18 Budget Position

Mrs Kilpatrick advised that there is a projected 6.9% loss of income from accommodation in 2017/18, as no tenant has as yet been identified from August 2017. NIJAC has asked The Executive Office (TEO) to accept that this shortfall represents the efficiency saving for 2017/18 and that NIJAC will not be subject to any further efficiency measures. Subject to no further efficiencies being required NIJAC should be able to deliver on its 2017/18 commitments within budget.

As the 2017/18 budget allocation has not yet been confirmed, Business Committee is recommending to Plenary that the current 2017/18 budget projection be used as an interim budget pending confirmation of the 2017/18 allocation. Once the 2017/18 allocation has been confirmed NIJAC staff will issue a draft budget to Business Committee for their consideration and approval which will then be shared with Plenary for final approval. This was approved by Plenary.

Business Committee Authorities

ASM, NIJAC's internal auditors, reported to Audit and Risk Management Committee (ARMC) on 24 January 2017. There were three areas of audit reported upon: 'Income and Financial Management', 'IT Security and Information Assurance' and 'Purchasing and Procurement'.

NIJAC received a 'satisfactory' rating and a number of priority 3 recommendations were made that included formalising the arrangements for approval of the annual budget.

Plenary approved an amendment to the Business Committee Terms of Reference to include "Being consulted on opening allocation of monies from sponsor department and intended annual budget allocation assigned by the Executive Team".

A corresponding addition to Plenary Terms of Reference was also approved to reflect, "Approval of opening allocation of monies from sponsor department and intended annual budget allocation assigned by the Executive Team".

ACTION:

- Executive Team to make agreed amendments to the Business Committee and Plenary Terms of Reference.

Dear Accounting Officer Letter

Mrs Kilpatrick referred to the two Dear Accounting Officer letters. One related to the use and approval of confidentiality clauses/agreements in dispute settlements and provides updated guidance. In accordance with the guidance NIJAC have written to TEO setting out the context for NIJAC's use of Confidentiality Agreements and seeking Departmental Accounting Officer (DeptAO) approval; the DeptAO responded with two suggestions for amendment which were approved by Plenary.

ACTION:

- Agreed amendments to be made to NIJAC's Confidentiality Agreements.

Draft Business Plan 2017/18

Mrs Kilpatrick advised that the draft Business Plan for 2017/18 was considered by Business Committee at their January meeting and Mr Coulter has subsequently worked with Mrs Kilpatrick on further refinement. A draft objective relating to Board Effectiveness has been included to capture actions arising from the afternoon session of today's meeting. Subject to some slight grammatical and structuring suggestions, Plenary approved the Business Plan for 2017/18 which will now be subject to consultation along with the 2017-2020 Corporate Plan with the relevant stakeholders.

ACTION:

- Business Plan for 2017/18 along with the 2017-2020 Corporate Plan to be consulted upon with the relevant stakeholders.

Policy Committee

Plenary noted a number of decisions that were made by Policy Committee at their meeting in January 2017 including the refinement to the variation clause for

Policies so that the need does not arise to make the changes to the policy each time an adjustment is proposed.

Programme of Action

Plenary considered the draft Programme of Action for 2017/18 which was approved by Commissioners. It was agreed that the afternoon session may assist in identifying further areas for consideration in terms of outreach.

Flexible Working Group

Mrs Kilpatrick advised that a sub group met in February to propose appropriate wording in relation to responsibilities for approval of an application. Subject to agreement it is anticipated that the Guidance will be issued for use at the start of the Financial Year with the Flexible Working Group intending to reconvene in one year to review progress.

Commissioners

Mrs Kilpatrick advised that the induction and buddy arrangements for the new Commissioners are continuing and feedback is positive.

Commissioners received the Skills Audit questionnaire in January and Mrs Kilpatrick encouraged those who had not already responded to do so. The Board Effectiveness Questionnaire was issued to Commissioners on 20 February and a paper on the findings will be presented at June Plenary. Again, non respondents were encouraged to submit the questionnaire.

End of year Commissioner Reviews are being arranged.

Commissioner Roles and Committee Membership

Professor Rooney has ably served as Complaints Commissioner however as she is standing down in June 2017, Plenary approved that Mr Coulter replace her in this role for a three year period.

Plenary agreed that Mr Rankin serve on the Audit and Risk Management Committee until he steps down in June 2017 to replace Judge Kinney.

Queens University Belfast (QUB) Postgraduate School and NI Public Bodies:
Mentoring Scheme

Plenary were advised that the Commissioner for Public Appointments (CPANI) are running a pilot mentoring scheme. Following discussion it was agreed that whilst it would not be appropriate for any potential Mentee to observe schemes or the work of Plenary or Policy Committee, Audit & Risk Management Committee and Business Committee would look at their own areas of work to identify if they could facilitate a worthwhile experience. Ms Frew will also liaise with CPANI to find out what level of commitment is expected from organisations participating in the scheme.

ACTION:

- Audit & Risk Management Committee and Business Committee to look at their own areas of work to identify if they could facilitate a worthwhile experience for a Mentee under the Mentoring Scheme.
- Ms Frew to liaise with CPANI to clarify the expected level of commitment.

6. Selection Committees

- **Current scheme updates**

Appeal Tribunals Legal Members

Mr Coulter advised that following final assessment, seven successful applicants were identified along with a reserve list of seven. Pre-appointment checks are now complete for the successful applicants and an Appointment Report will be issued to Plenary shortly for their consideration and approval.

High Court Judge

The Chairman advised that the final interviews for the High Court Judge scheme took place on 6 March 2017.

Pensions Appeal Tribunal Legal Members

Ms Matchett advised that the scheme closed to applications on 20 February 2017. The Selection Committee are in the process of carrying out the individual

paper sift of all applications with a moderation meeting scheduled for 14 March 2017. Interviews are scheduled for the beginning of April.

Criminal Injuries Compensation Appeals Panel (CICAP) Adjudicator (Lay)

Mr Doyle advised that this scheme is due to advertise on 30 March 2017 and close on 2 May 2017.

- **Lessons Learned Reports**

CICAP Adjudicator (Legal)

Mr Todd advised that this scheme was efficiently run and was successful in attracting a strong field of applicants with two successful applicants being identified.

A recurring theme that has been identified in all Lessons Learned Reports presented today is the quality of applications being submitted, in that many applications lacked detailed worked examples addressing all areas of the Personal Profile being assessed. It was agreed that this theme would be further addressed in the afternoon session.

Appeal Tribunals Disability Qualified Member

Mr Coulter advised that this scheme was successful in attracting a large amount of applications and identifying 11 successful applicants along with a reserve list of five. Given the nature of the scheme it was necessary to accommodate a number of reasonable adjustments and this was well managed.

Mr Coulter referenced the issue of legally qualified persons applying for non-legally qualified roles, a matter which NIJAC has already raised with the Department.

Appeal Tribunals Medical (Specialist) Members

Ms Frew advised that this scheme to recruit seven Specialist Medical Members was unfortunately not successful in fulfilling the requirements with only three applicants progressing to appointment. Discussion addressed the high dropout rate of applicants prior to interview and the options being adopted to redress this

issue. An Appointment Scheme Requirements Form (ASR) has been received to re-run this scheme and fill the further anticipated vacancies with advert anticipated in April 2017.

Appeal Tribunals Medical (Generalist) Members

Mr Doyle advised that this scheme to recruit 11 Specialist Medical Members was also not successful in fulfilling the requirements with only six applicants progressing to appointment. Mr Doyle noted that further engaging with the Medical profession to provide a programme of outreach may assist in attracting and improving the performance of applicants. It was agreed that this would be addressed and considered in the afternoon session of the meeting. An ASR has been received to re-run this scheme and fill the further anticipated vacancies with advert anticipated in April 2017.

Pilot Report (Two Person Paper sifting)

Following the Plenary recommendation made in June 2016, the Appeal Tribunals Disability Qualified Member scheme piloted two members of the Selection Committee undertaking the papersift (to include the co-opted member and one NIJAC Lay Commissioner and maintaining a gender and community background balance where possible). Mr Coulter advised that this pilot appears to have had a degree of success as the Selection Committee acquired a good general standard of applicant progressing to the interview and limited cost savings were achieved, however the initial divergence in individual scores resulted in additional time and discussion to address.

Plenary agreed to maintain three person paper sifting until the training enhanced with a mock paper sifting exercise has time to bed-in. Two person paper sifting can then be piloted again at some later point.

7. Character Issues

Mr Justice Stephens presented his report advising that there has been one scheme during the period where an issue had arisen resulting in one decision in relation to Character. This was noted by Plenary.

8. Audit and Risk Management Committee

Mr Todd discussed the minutes of the Audit & Risk Management Committee meeting on 24 January 2017; the majority of notable matters having been addressed within the substantive Plenary agenda. The minutes were noted by Plenary.

9. Business Committee

Mr Coulter advised that at their meeting on 26 January 2017 Business Committee reviewed the budget position and considered a number of matters including the draft Business Plan 2017/18 and the outcome of the IT Health Check. The minutes were noted by Plenary.

Draft Committee Meeting Dates

Plenary reviewed the draft Committee meeting dates and agreed that the Plenary meeting scheduled for 20 April 2017 was not required given that the next meeting is scheduled for 1 June 2017. The remaining dates were approved by Plenary.

Committee Membership from September 2017

Mrs Kilpatrick advised that given the imminent turnover of Commissioners no changes have been suggested to the current membership of Standing Committees. This was approved by Plenary.

10. Policy Committee

Minutes of 31 January 2017

The minutes of 31 January 2017 were noted by Plenary.

Review of Policy Committee

Mr Justice Stephens advised that at December Plenary, it was agreed that Policy Committee would report back to Plenary on the Committee's work plans including identifying where matters may be dealt with by the Committee, those that require referral to Plenary and whether referral should be arranged for specific intervals or on an annual basis. Mr Justice Stephens advised that NIJAC has 26 appointments related policies which Policy Committee is responsible for and

therefore in order to ensure a proportionate distribution of work Plenary agreed to the following approach:

- Plenary triennially reviews the specified list of core policies.
Minor, cosmetic, non-material amendments to policies can be approved by Policy Committee, without seeking Plenary approval. Plenary will be informed electronically or through the minutes of Policy Committee meetings.
- That revision of a Policy in light of learning can wait until scheduled review unless a matter of substance. The decision will be a matter for the Chair of Policy Committee.

Continuous Improvement Plan

Mr Millar advised that the Continuous Improvement Plan for 2017-2020 includes further research/development projects, compatibility reviews of assessment methods, job analysis of judicial offices and the further consideration of specific guiding principles for assessment method design.

11. Outputs

NIJAC staff joined Commissioners for the afternoon session of the meeting which focused on 'Outputs' and was facilitated by Mr Coulter.

Discussion focussed on NIJAC's key work areas including Recruitment and Selection, Our People and Working with Others. Discussions were led by Mr Doyle, Mr McNulty and Ms Matchett. Detailed discussions achieved consensus on the key outcomes and will be incorporated in the relevant Business Plan objective.

12. Any other business


Appointment Report – Disability Qualified Members of the Appeal Tribunals

Plenary approved the appointment report for eleven Disability Qualified Members of the Appeal Tribunals.

13. Date and Agenda of next meeting

Thursday 1 June 2017 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

1 June 2017
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