

**Minutes of the Plenary Meeting held on Thursday 10 April 2014,  
Ground Floor Boardroom, Headline Building, Victoria Street, Belfast.**

- Present:**
- The Right Honourable Sir Declan Morgan, the Lord Chief Justice of Northern Ireland (Chairman)
  - The Right Honourable Lord Justice Coghlin
  - Mr Eoin Doyle
  - Mrs Breidge Gadd
  - Mrs Fiona Keenan
  - His Honour Judge Kinney
  - Mr James McNulty QC
  - District Judge (Magistrates' Courts) Rosalie Prytherch
  - Mr Alastair Rankin
  - Professor Nichola Rooney
  - Mr Justice Stephens
  - Mr Lindsay Todd
- In Attendance:**
- Mrs Mandy Kilpatrick
  - Mrs Helen Anderson
  - Ms Adeline Frew
  - Miss Catherine Woods
  - Mr Andrew Millar

## **Minutes of the Last Meeting**

1. The minutes of the meeting held on 20 February 2014 were agreed by the Commissioners subject to the following amendments:
  - Point 11 Page 5 - 'originally appointed to the committee' to be inserted.
  - Point 18 Page 8 – 'across' to be deleted; duplication of word in the sentence.
  - Point 23 Page 9 – 'an hour' to be amended to '10-15 minutes'.
2. The Commissioners confirmed that there were no conflicts of interest before proceeding with the meeting.

## **Commissioners Appraisals**

3. The Chairman thanked the Commissioners for meeting with him for their 2013-14 Performance Appraisals. He noted Commissioners had universally welcomed the contribution of the new Chief Executive, Mrs Mandy Kilpatrick, who took up the position in October 2013.
4. The Chairman then explained that the main issue arising from the appraisals was that Commissioners would value increased opportunity at Plenary to consider both business delivery and strategy. The Chairman indicated that he had discussed the issue with the Chief Executive and taking into consideration the general fullness of the Plenary agenda and potential cost implications he had determined that starting from the October Plenary meeting the format will change from a half day to a full day. The morning session will concentrate on business issues while the afternoon session will be used to focus on a strategic theme and include engagement with key stakeholders e.g.

involving the presiding judges with a Senior Appointments Review Team (SART) session at October's Plenary on qualities and abilities for judicial office and their appropriate weighting; and inviting the Department of Justice (DoJ) to a future session on flexible working.

5. Any outstanding Commissioner appraisal comments to be forwarded to the Chairman.

**Action: All Commissioners to check their dairies for their availability for the all day plenary meetings.**

**Action: All Commissioners to bring to the June meeting suggested topics for the December and February Plenary meetings.**

**Action: Commissioners to forward outstanding appraisal comments to the Chairman.**

6. Mr Doyle will move from the Audit & Risk Management Committee to the Business Committee.

### **Chief Executive's Update**

7. Mrs Kilpatrick presented the Chief Executive's Update at Flag B.

8. ***2013-14 Business Objectives***

Of the 20 Strategic Objectives contained in the 2013/14 Business Plan, all were achieved.

The 2013-14 Objective to 'Deliver and manage a programme of appointments to judicial offices listed in Schedule 1 to the 2002 Act within time scales agreed with client organisations' was met in that we delivered to timescales agreed with client organisations. The original target was for 10 schemes however the timetable for 3 schemes was revised to accommodate DoJ as they were not in a position to provide the requisite documentation to meet the original timetable. This impacted on one other target within the 2013-14 Objectives, to 'Maximise use of resources through sound financial management and controls, and achievement of efficiency targets'. Although we operated within allocated budget avoiding any overspend the slippage in scheme timetables and a member of staff leaving late in the year, meant that we did not manage to keep our underspend within the tolerance level of 0.5%. We did however achieve the 2<sup>nd</sup> target within this objective: delivering a cumulative 3% efficiency saving in-year and therefore consider the overall objective to be met.

9. A new business objectives reporting template is being developed for 2014-15. The business objectives and targets for 2014-15, allocated by Committee and staff, have been circulated to each committee. A timeline of the work arising from these objectives is contained at appendix 1 to the paper.

10. ***Corporate Plan 2014-17 and Business Plan 2014-15 Consultation***

We received positive feedback and suggestions from the Bar Council, the Northern Ireland Courts and Tribunals Service (NICTS), the Department for Social Development (DSD) and the Office of the First Minister and Deputy First Minister (OFMDFM) and amendments have been made to reflect their comments.

The Bar Council suggested additional meetings be included as targets. Mrs Kilpatrick proposed that some individual meetings could be held but endorsed Mr Rankin' suggestion at Business Committee, that any engagement should primarily be linked through the Joint Liaison Committee (JLC), which will include the Law Society in attendance. It was also agreed that subject to a specific outcome being agreed that the Business Plan wasn't amended to include a specific number of meetings.

OFMDFM requested that a note of financial savings be included; this has been done. Any reference to the Lay Magistrate Scheme running in 2014-15 has been removed following discussions with the DoJ.

Through consultation with DoJ, we have changed 'Review of Terms and Conditions' to 'Audit of Terms and Conditions' in the Business Plan as a more accurate reflection of the work required

Also included is reference to the office of the Northern Ireland Judicial Appointments Ombudsman being held simultaneously by the Northern Ireland Public Services Ombudsman from 2015.

Mrs Kilpatrick noted the final Plans needed to be signed off by OFMDFM. The Commissioners gave their consent to the final Plans being circulated by email to them before final release on the NIJAC website.

**11. *Staffing***

Mrs Kilpatrick referred to the letter of the 10 March 2014 from Alan Maitland, OFMDFM. OFMDFM have agreed to set aside the Business Consultancy Services (BCS) draft Review Report and are broadly satisfied with the optimum staffing structure and recommendations presented by NIJAC on 3 March. Key dates for implementation of the new structure in 2014/15 have been agreed with the Business Committee.

**12. *Lay Commission Member Update***

There has been no progress in the appointment of the new Lay Commission Member since the Chairman wrote to OFMDFM in December. Mr Todd, Chair of the Audit & Risk Management Committee, also raised the outstanding appointment with OFMDFM at the Committee meeting on 3 March and was advised that the Sponsor Team had escalated the issue within the Department and would continue to review the situation on a weekly basis and feedback to NIJAC.

**Action: The Chairman will write again to OFMDFM regarding the Lay Commission Member appointment.**

**13. *Appointments Update***

A new format of the Appointments Update table, developed for Business Committee, was circulated at the meeting; this included an overview sheet which sets out the costs of each scheme. The overview sheet is also presented to OFMDFM at the quarterly Sponsorship Liaison meetings.

**14. *Outreach***

NIJAC met with several solicitor associations; details are included in the Chief Executive's Report paper at flag B.

**15. *Budget***

NIJAC made an estimated £100k under spend/saving in 2013-14, this was mainly as a result of 3 schemes not being advertised before 31 March; 2 are being advertised in April (2014-15) while the Lay Magistrate Scheme is postponed; staffing changes also contributed to the underspend. Mrs Kilpatrick noted that this was well outside usual tolerance levels and was a concern for both NIJAC and OFMDFM (who may write to the Chair directly). However the planned action with DoJ, to enhance the Memorandum of Understanding and include specific targets, should limit the potential for future slippages to impact so significantly on NIJAC's budget.

**16. *Information Assurance***

A list of Do's and Don'ts to safeguard information was presented to the Commissioners. An information assurance declaration and information pack specifically designed for Commissioners will be developed in 2014-15 which each Commissioner will be asked to sign.

All Commissioners were advised that a locked cabinet could be provided to assist with the safekeeping of information.

**17. *Legal Commission Member re-appointments***

The Bar Council and the Law Society have confirmed the re-nomination of the two current Legal Commission Members for a further term. OFMDFM are in the process of drafting a submission to Ministers.

## **Annual Review of Core Elements of the Programme of Action**

18. The Commissioners noted the paper which had been presented at the last Policy Committee meeting in March. Discussions followed on procedures to evaluate any increase in applicant numbers as a result of outreach and it was confirmed that applicants are asked how they heard about the role in scheme feedback forms. The website was also discussed and it was noted that it is the main source of information, as evidenced by the continual increased number of 'hits' and that 96% of applicants applied on line. It was agreed the Joint Liaison Committee (JLC) would be asked for their feedback on its user friendliness.

**Action: Ms Frew to include on the next JLC agenda and use Survey Monkey to test views.**

## **Judicial Appointments Board (JAB) Conference: Merit & Diversity**

19. Mrs Kilpatrick and Professor Rooney referred to the paper at Flag D and presented the views of two keynote speakers, Lord Carloway and Baroness Neuberger DBE. The issues in both Scotland and England and Wales are similar to that in Northern Ireland, with Scotland further constrained by legislative restrictions on appointments within a geographical area, which are considered a barrier to increasing a gender balance within appointments to judicial office.
20. The Judicial Appointments Commission England & Wales (JAC) is introducing 'nudging' (a copy letter setting out the legislative framework was shared). This process allows for appointment of an applicant from an under-represented group to progress ahead of another applicant where both were scored equally.



21. It was noted JAC also has our equivalent of the Joint Liaison Committee (JLC) but it includes representatives from the Ministry of Justice and relevant politicians. The difference in the role of the JAC Board compared to that in Scotland and Northern Ireland was also noted - they do not sit on Selection Committees (SC) but review and can overturn SC decisions. The Chairman noted the appraisal system operating in England and Wales.
22. Mrs Kilpatrick referred to JAC's current work on reviewing their selection methodologies. Discussions followed on the benefits of opportunities to discuss issues with colleagues in other jurisdictions and the potential to engage with the local JLC to develop a similar conference theme in 2014/15. In addition the potential for positive engagement with local politicians (on a party basis) and media to explain how NIJAC operates will be considered following the planned Justice Committee appearance by the Chairman.

### **Court of Appeal Appointment**

23. The Chairman updated Commissioners on the proposal by the Prime Minister to commence a Court of Appeal appointment scheme; he indicated that he had been invited to constitute and chair a panel. The panel, which would meet diversity requirements, would also involve a senior judge, a lay member and NIJAC would be required to nominate a Lay Commissioner. The Chairman indicated the panel was likely to convene in May.

### **Senior Appointments Review Team (SART) Update**

24. Professor Rooney updated the Commissioners on the work of SART to date. SART has met with the presiding judges and the Personal Profiles have been sent out for consultation across the county court,

district judge (civil) and district judge (magistrates' court) tiers. SART's progress (to extend to selection methodologies) will be the substantive theme at the October Plenary.

25. Once agreed the court based Personal Profiles should inform a model for other court and tribunal posts and enable consultation with relevant office holders to progress.

### **County Court Judge Scheme Update**

26. Mr Justice Stephens presented the Paper at Flag E. The shortlisting and assessment process used included an application form, a shortlisting interview (all applicants were interviewed), and a scenario, interview and role-play.
27. The shortlisting interview took 20 minutes, mainly focussing upon the applicant's application form. Mr Justice Stephens felt that the field of applicants were good, however, it was noted that some applicants would have performed better if they had made reference to cases in their application form. Therefore, better preparation and attention to the completion of the application form by some applicants may have assisted. These issues have been communicated through feedback which has been offered to all the short-listed applicants at second stage and will be communicated through any future Outreach and the Joint Liaison Committee (JLC).
28. The scoring results at different stages demonstrated the effectiveness of role-play as an assessment method. A discussion on whether role-play training for applicants would be helpful concluded that the matter could be checked out through the JLC.

29. Mr Justice Stephens stated that he did not endorse Point 1 under 'Extract from Focus Group Report' on page 4 of the paper.

**Action: Ms Frew to include on the next JLC agenda the use of Role Play, feedback from the County Court Judge Scheme recommendations for the professions and the effectiveness of the website's pod cast.**

#### **Master (Chancery) Scheme Update**

30. His Honour Judge Kinney presented the Paper at Flag F. This is a live scheme which was advertised on 27 March, and is due to close 2 May. The current numbers of applications in progress was confirmed. The shortlisting is by two means, a test and a paper sift. A role-play and interview will follow for those getting through to the next stage.

#### **Mental Health Review Tribunal (Medical) Scheme Update**

31. Professor Rooney presented Paper at Flag G. This is a live scheme which was advertised on 8 April, and is due to close 6 May. There is no shortlisting, however, the Applicant Information Booklet (AIB) provides that should the number of applicants exceed expectations, a further shortlisting method(s) may be employed e.g. a paper sift. All eligible applicants will proceed to a scenario assessment and interview.

#### **Criminal Injuries Compensation Appeal Panel (Medical) Scheme Update**

32. Professor Rooney presented the Paper at Flag I. There are 3 positions available. The numbers of applications exceeded expectations and applicants were asked to provide a self assessment (on the Knowledge and Experience elements of the Personal Profile) to facilitate a paper sift.

## **Mental Health Review Tribunal (Legal) Scheme Update**

33. Mr Rankin presented the Paper at Flag H. This is a live scheme which is due to be advertised on 17 April. If more than fourteen applications are received, the SC may determine a shortlist of applicants to proceed to the next stage on the basis of a paper sift on the elements of the Personal Profile set out in the self assessment forms. If the total number of applications should exceed fifty, then the SC will consider the use of a test to determine the shortlist of applicants to proceed to the Assessment and Selection Centre (ASC).
34. Discussions followed on how the proportion of applicants interviewed to number of posts are determined and it was noted this is part of the work on the Plan of Action contained in the 2014-15 Business Plan.

## **Updates from Chairs of the Committees**

### **Policy Committee**

35. Lord Justice Coghlin, as Chair of the Policy Committee, gave a brief overview of the March committee meeting:
- The definition of maladministration had been discussed and how it was judged on manner and not merit. The Complaints Policy will be finalised following a benchmarking exercise on the time limits of complaints; the policy will be tabled at the June Plenary.
  - The Constitution of Selection Committees was discussed. Work on reviewing the arrangement is included in the 2014-15 Business Plan tasks; until this work has concluded the current arrangements will stand but include electronic consultation with Business Committee members where there is a time pressure.

- The issue of validation of tests will be addressed by Policy Committee in May.

### **Audit and Risk Management Committee**

**36.** Mr Todd, as Chair of the Audit and Risk Management Committee, gave a brief overview of the March committee meeting:

- The internal audit services contract is due to expire in October. Taking into account the summer period (July-August), we must run the tender process before the summer to facilitate Commissioners sitting on the tender evaluation panel and meet the October deadline. The Business Case was presented to OFMDFM at the December committee meeting and approval was still outstanding at the last meeting (3 March).
- Mrs Kilpatrick updated the Commissioners on a letter received from OFMDFM on 21 March, suggesting NIJAC enter into an internal audit services contract with one or more other OFMDFM Arms Length Bodies (ALBs); a list of ALBs and contract expiry dates were supplied. Mrs Kilpatrick provided an update noting that as the majority of the other ALBs have a different expiry date and are charged a higher rate for the service than NIJAC (services are organisation specific) we currently do not see this as an option. We are proposing to reduce the length of the contract to allow the business case to be authorised internally by NIJAC and include a commitment to any OFMDFM initiative to corral contracts. Commissioners were content with this approach.
- The Lay Member Commissioner vacancy position was as outlined earlier in the meeting.

- The Legal Advice business case for 2014-15 is being prepared. OFMDFM were asked if the Crown Solicitors Office (CSO) were classed as 'consultants'. Since the meeting, OFMDFM have confirmed (on 18 March) that the CSO are not classed as consultants.
- The Appointments Internal Audit Review received a substantial level of assurance.
- Permission from OFMDFM to allow NIJAC to pay the tax and national insurance charges on Commissioners travel is still outstanding.

### **Business Committee**

37. Updated Business Committee minutes were handed out at the meeting which incorporated changes made by the Chair of the Committee after plenary papers had been distributed.
38. Mrs Gadd, as Chair of the Business Committee, gave a brief overview of the March committee meeting:
  - Staffing was discussed earlier in the meeting within the Chief Executive's Report. The Committee approved the Plan of Action for implementation of the new optimum staffing structure.
  - The risk register is referred to the Audit and Risk Management Committee for their views (and the views of Internal and External Audit) on including new risks on the register which are mitigated down to a low score by adherence to policies in place or are a result of external factors which are not controllable by

NIJAC e.g. potential for negative views of our processes and outcomes.

### **Board Effectiveness**

39. Mr Todd gave an update on the work of the Board Effectiveness Sub Committee who was tasked with reviewing the 2012-13 Board Effectiveness Questionnaires and proposing an action plan going forward.

Mr Todd will draft a paper of the Sub Committee's action plan and circulate to all Commissioners in the next few weeks; in brief it will address 4 proposed areas:

- Strategic Actions – role of the plenary.
  - Operational – interaction with the Senior Management Team and roles and responsibilities of staff and Commissioners (addressed in the Business Plan 2014-15).
  - Interpersonal Relationships – Additional opportunities for Commissioners to interact and learn from exemplars in other Boards.
  - Partnership Actions – e.g. in addition to JLC, JAC.
40. Self evaluation was discussed and the potential to use the Institute of Directors or use in-house resources to facilitate this work.
41. The 2013-14 Board Effectiveness Questionnaire is due to be circulated for all Commissioners to complete. Mrs Kilpatrick will review last year's template to take on board feedback before it is approved for issue.

42. Professor Rooney highlighted that it would be helpful if Commissioners would focus on including comments on the Board Effectiveness Questionnaire and not just tick the boxes.

**Action: Mr Todd to circulate a paper to all Commissioners on the proposed action plan of the Board Effectiveness Sub Committee in the next few weeks.**

**Action: Mrs Kilpatrick to review last year's Board Effectiveness Questionnaire template to make it more NIJAC specific.**

**Action: All Commissioners to complete and return the 2013-14 Board Effectiveness Questionnaires within the agreed timescale and complete the comment boxes in the Questionnaire.**

### **Justice Committee**

43. The Chairman is likely to attend the Justice Committee in early May or June.

### **Any Other Business**

44. Commissioners noted a concern around the level of support provided to judicial commissioners and co-opted judiciary when they are involved with NIJAC. The Chairman will discuss this with the Presiding Judges.



**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**

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