

**Minutes of the Plenary Meeting
Held on Thursday 1 June 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 – left the meeting at 1pm
Mr Eoin Doyle QFSM
Mr Paul Douglas
Ms Marion Matchett CBE
Mr James McNulty QC
District Judge (Magistrates' Courts) Rosalie Prytherch
Mr Alastair Rankin
Professor Nichola Rooney
The Honourable Mr Justice Stephens
Mr Lindsay Todd
The Right Honourable Lord Justice Weatherup

In Attendance: Mrs Mandy Kilpatrick (Chief Executive Officer (CEO))
Mr Mark Bryson – left the meeting at 1pm
Ms Adeline Frew
Mrs Julie Monahan
Mr Andrew Millar
Mrs Nicola Byrne (Secretary)

1. Apologies

None received.

2. Conflicts of Interest

No conflicts were declared.

3. Confidentiality

The importance of confidentiality was stressed.

4. Minutes of meeting on 9 March 2017

The minutes of the meeting on 9 March 2017 were approved.

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

Mrs Kilpatrick provided an update on the action arising in respect of the Judicial Appointments Ombudsman (JAO). The JAO has drafted a complainant focussed protocol for hosting on their website that indicates that a fast track process may be utilised in the case of some complaints and this will be considered on a case to case basis. Mrs Kilpatrick also informed Plenary that in relation to the outstanding complaint the Ombudsman had confirmed that he had determined that it was not necessary to accept the complaint for further investigation.

5. Chief Executive's Report

Mrs Kilpatrick presented her report to Plenary.

2017/18 Business Plan Objectives

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

2017/18 Risk Register

The 2017/18 Risk Register was reviewed by the Executive Team on 8 May 2017 and Mrs Kilpatrick advised that there has been no changes to scores as the impact of the current political situation on the appointment of Commissioners and budget pressures remain as previously considered. One of the actions arising from the risk of 'Loss of Commissioners' is that a Review of Standing Orders and Contingency in Committees be considered by Plenary and this will be addressed within the substantive agenda.

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

Mrs Kilpatrick advised that NIJAC has a low to medium risk appetite, that is, NIJAC are prepared to accept, tolerate or be exposed to a low to medium level of risk at any point in time. Plenary noted that it had last reviewed and approved the continued use of a low to medium Risk Appetite for NIJAC on 3 December 2015 and agreed that it would be timely to revisit Risk Appetite in December 2017 once the new Commissioners are in post.

Budget Update

2017/18 Budget Position

Ms Kilpatrick confirmed that given the current political situation there has been no formal budget allocation for 2017/18 however a provisional budget allocation has been provided as a short term measure to ensure the continuity of services until an incoming Administration is in place and decisions taken on the 2017/18 budget.

It had been intended that once the 2017/18 allocation had been confirmed, NIJAC staff would issue a draft budget to Business Committee for their consideration and approval before being shared with Plenary for final approval. However, given the current situation, an indicative projected spend for the remainder of the financial year will be provided to Business Committee at their next meeting and, subject to the Committee's agreement, presented to Plenary in October.

General Matters

Mrs Kilpatrick confirmed that the following documents had recently been circulated to Plenary electronically for their information;

- Rules for Observers: approved by Policy Committee on 9 May 2017.
- Whistleblowing Policy: considered by Business Committee on 27 April 2017.
- Business Continuity Plan (BCP): considered by Business Committee on 27 April 2017.

Mrs Kilpatrick emphasised that in the context of good governance it is important that all Commissioners are aware of the Whistleblowing Policy and the arrangements to follow should any concerns arise. This had previously been an internal document and upon revision now includes an aspect addressing how members of the public might raise a concern.

Policy Committee

Mrs Kilpatrick advised that Policy Committee approved the 2017-2020 Continuous Improvement Plan and undertook an exercise to prioritise projects in the event that lack of resource in terms of staff capacity and/or budget becomes an issue. Plenary noted that the projects have been prioritised in the following order:-

- 1) Review of Lessons Learnt
- 2) The Effectiveness of NIJAC's Assessment and Selection Process
- 3) Guiding Principles for Interviews, and
- 4) Ratios of vacancies to interviews.

Outreach and Working with Others

Mrs Kilpatrick advised of the various initiatives undertaken since the last meeting of Plenary.

The Senior Salaries Review Body (SSRB) has initiated a major review of judicial pay across the United Kingdom (UK) and for the first time has included, and will make recommendations on, the pay of fee paid judiciary. The review is expected to make recommendations to the Lord Chancellor no later than June 2018. Mrs Kilpatrick confirmed that she has agreed to be involved in a Department of Justice (DOJ) led Judicial Salaries Group that will ensure NIJAC is alert to any issues that might relate to wider tribunal reform. NIJAC has already provided factual information as part of a joint submission with the Department of Justice (DoJ), Office of the Lord Chief Justice (OLCJ) and Northern Ireland Courts and Tribunals (NICTS). NIJAC will also be making an independent submission directly to SSRB in due course and a draft will be shared with Plenary for its approval.

Audit and Risk Management Committee ((ARMC) and Business Committee have considered the Queens University Belfast (QUB) Postgraduate School and Northern Ireland Public Bodies: Mentoring Scheme and agreed, with certain caveats, that they would each be content to have their Committee observed by a Mentee. The Commissioner for Public Appointments for Northern Ireland (NI) has been advised of NIJAC's interest in participating in the scheme and we have already been approached to participate. We will be liaising with them directly to make the appropriate arrangements.

Staffing

Mrs Kilpatrick advised that one maternity leave is ongoing with a return expected late summer and a further maternity leave is anticipated from June. A new seconded member of staff, Sean O'Mara, joined the Appointments Team on 22 May 2017. The Executive Team are keeping the staffing situation under review and ensuring any contingency measures required are in place.

6. Annual Report and Accounts 2016/17

Mrs Kilpatrick advised that the draft Annual Report and Accounts 2016/17 were provided to the ARMC at their meeting on 23 May 2017.

Following discussion a number of amendments were agreed by Plenary who approved the draft Annual Report and Accounts 2016/17 subject to approval of the Accounts and Governance Statement by the ARMC and the adoption of any suggested grammatical / presentational amendments which will be circulated to the Executive Team electronically. It was noted that the Director of Governance and Appointments undertook to refer any substantial adjustments back to Plenary.

ACTION:

- Commissioners to provide any further feedback on the draft Annual Report and Accounts 2016/17 to the Executive Team electronically.

7. Selection Committees

- Current scheme updates

High Court Judge

The Chairman updated Plenary noting that a further scheme will be required.

In consideration of the requirement for both a High Court Judge and County Court Judge scheme in 2017/18 Plenary considered additional outreach measures that could be undertaken to attract applicants and any additional guidance that could be provided by NIJAC or the professional bodies. It was agreed that a subcommittee would be established consisting of District Judge (Magistrates' Courts) Prytherch, Ms Matchett and the new Bar and Law Society representatives to consider this matter.

ACTION:

- A subcommittee consisting of Judge Prytherch, Ms Matchett and the new Bar and Law Society representatives to consider additional outreach measures that could be utilised by NIJAC and the professional bodies.

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

Mr Doyle advised that a shortlisting moderation exercise took place on 29 May 2017 with interviews scheduled for 15 & 16 June 2017. Mr Doyle advised that the Selection Committee undertook a dry-run of the interview which they found to be highly valuable in ensuring that the agreed scoring mechanism and questions were appropriate.

Appeal Tribunals Medical Generalist Members

Mr Coulter advised that the scheme closed to Expressions of Interest on 8 May 2017 with interviews scheduled for the end of June 2017.

Appeal Tribunals Medical Specialist Members

Mr Coulter advised that this scheme was due to close to Expressions of Interest on 8 May 2017 however due to a lack of interest the Selection Committee extended the application period to 24 July 2017 and sought additional outreach

for example through the General Medical Council and existing judicial office holders. NIJAC have identified a number of factors that may be preventing interest from the applicant pool and having consulted with the Office of the President will be writing to the Department to outline the difficulties.

Mental Health Review Tribunal (MHRT) Medical (Psychiatrist) Member

Professor Rooney advised that the scheme is currently open to Expressions of Interest and is due to close on 5 June 2017 with interviews scheduled for 20 June 2017.

Charity Tribunal Ordinary Member

Mr Doyle advised that the scheme advertised on 1 June 2017 with a closing date of 3 July 2017.

- **Lessons Learned Reports**

Appeal Tribunals Legal Member

Mr Rankin advised that this scheme was efficiently run and was successful in attracting a strong field of applicants with seven successful applicants being identified along with a reserve list of seven for any potential future vacancies that may arise.

Part of the evaluation of this scheme included a comparative assessment of those applicants who did not progress through the test and Plenary considered the detailed report provided. This evaluation concluded that multiple choice testing is an effective method of shortlisting, particularly in larger scale schemes; it was also recommended and agreed by Plenary that Policy Committee review the standardised approach and consider what level of flexibility should be reflected for larger volume schemes. Plenary approved this recommendation.

ACTION:

- The Standardised Approach for high volume schemes to be reviewed by Policy Committee.

Pensions Appeal Tribunal Legal Member

Mr Rankin advised that this scheme was successful in attracting a good volume and range of applicants and identified two successful applicants along with a reserve list of four. Selection Committee members noted that the opportunity for them to observe the work of the Tribunal to gain a greater insight into the role was worthwhile.

8. Character Issues

Mr Justice Stephens confirmed that there were no character issues to report.

9. Audit and Risk Management Committee

Plenary noted the minutes of the ARMC meeting on 14 March 2017. Mr Todd provided a verbal update of the meeting on 23 May 2017; the majority of notable matters having been addressed within the substantive Plenary agenda including the consideration of the Annual Report and Accounts 2016/17.

Annual Review of Performance of the Committee

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 Todd presented his report to Plenary. Mr Todd 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 Todd also noted the three satisfactory assurance ratings from Internal Audit that were achieved by NIJAC during the reporting period. Plenary approved the Accounts and Governance Statement for inclusion in the Annual Report and Accounts 2016/17.

10. Business Committee

Mr Coulter outlined the key aspects in the minutes and advised that at their meeting on 7 April 2017 Business Committee reviewed the 2016/17 budget position noting that we have stayed within the required tolerance, and considered the 2017/18 budget. The Committee also considered and approved a revised Quality Control Checklist. The minutes were noted by Plenary.

Reviewed Standing Orders and Contingency Consideration of Committees

Mr Coulter advised that in accordance with the action arising from the Risk Register under 'Loss of Commissioners' Business Committee (taking into consideration the current political situation) considered the reviewed Standing Orders and Contingency Committee Membership which were presented for Plenary approval. Mrs Kilpatrick referred Commissioners to the change record at the end of the reviewed Standing Orders and highlighted the following inclusions;

- Introduction of a Variation Clause stating that the Standing Orders and Committee Terms of Reference, or the arrangements under them may be varied, amended or adjusted at any time.
- Updated narrative to reflect the current Conflicts of Interest Policy, including reference to the appointment and role of Appropriate Person.
- Confirmation that Quorum may be amended proportionate to membership; for example if Plenary is reduced to seven Commissioners that quorum is four.

The revised Standing Orders and Contingency Consideration of Committees were approved by Plenary.

It was agreed that the nominated Judicial and Legal Representatives would be invited to attend the October Plenary meeting in an observatory capacity.

ACTION:

- The nominated Judicial and Legal Representatives of the Commission to be invited to attend the October Plenary meeting in an observatory capacity.

Annual Review of Performance of the Committee

Mr Rankin outlined the work that has been undertaken by Business Committee in the past year including the monitoring of NIJAC's financial performance against the budget to ensure our effectiveness and appropriate use of public funds, and monitoring the risks associated with the delivery of our objectives including

ensuring appropriate actions were delivered to enhance control, for example the review of the Standing Orders. Mr Rankin confirmed that it is his view as Chair of the Committee that much has been achieved in the past year and that the committee remains effective.

11. Policy Committee

Minutes of 9 May 2017

The minutes of 9 May 2017 were noted by Plenary.

Commissioners Training Plan

Mr Justice Stephens presented the Commissioners Training and Development Plan 2017/18 which includes specific reference to induction arrangements for new Commissioners which will be particularly relevant this year. Plenary approved the Commissioners Training and Development Plan 2017/18.

Confidentiality Policy

Plenary approved the revised Confidentiality Policy which has been updated to reflect current legislative requirements for confidentiality and noting circumstances where disclosure is lawful.

Annual Review of Performance of the Committee

Mr Justice Stephens outlined the work that has been undertaken by the Committee in the past year noting in particular the review of Role Plays, Situational Judgement Exercises, Paper sifting and Application Forms. Mr Justice Stephens also highlighted a number of policy reviews including the References Policy, Equal Opportunities Policy and updates to the Character and Conflicts of Interest Policies. Mr Justice Stephens confirmed that it is his view as Chair of the Committee that much has been achieved in the past year and that the committee remains effective.

12. Board Effectiveness

Mrs Kilpatrick advised that responses from the Board Effectiveness Questionnaires were very positive, with the introduction of themes in the afternoon sessions of Plenary being seen to be of benefit. It was noted that any

matters arising had been captured in relevant plans. Plenary agreed that given the recent appointment of two new members and with further new appointments anticipated in the coming months, a future theme for Plenary would be to use 'Board Effectiveness' from the perspective of induction and building a new team dynamic.

ACTION:

- Board Effectiveness session to be a Plenary theme upon appointment of new Commissioners.

13. Professor Rooney – Lessons Learned

Professor Rooney delivered an insightful presentation to Plenary reflecting on her time in the Commission covering the key responsibilities of NIJAC, the challenges we face and what has been achieved during her time with NIJAC.

14. Any other business

Appointment of a Coroner

Plenary approved the appointment of Mrs Justice Keegan as Coroner following the retirement of Lord Justice Weir on 12 July 2017.

Mr Rankin, Mr McNulty QC, Professor Rooney and Lord Justice Weatherup

Mr Rankin, Mr McNulty and Professor Rooney are due to leave NIJAC on 14 June 2017 with Lord Justice Weatherup also due to retire on 4 September 2017. As this was their last Plenary meeting, the Chairman thanked them all for their valued contributions, advice and guidance during their time in NIJAC and wished them all the best for the future.

15. Date and Agenda of next meeting

Thursday 19 October 2017 at 9:30am.

Signed

Declan Morgan

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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

7 December 2017

ACTION POINT SUMMARY

Agenda Item	Action	Owner
6	<ul style="list-style-type: none">Commissioners to provide any further feedback on the draft Annual Report and Accounts 2016/17 to the Executive Team electronically.	Plenary
7	<ul style="list-style-type: none">A subcommittee consisting of Judge Prytherch, Ms Matchett and the new Bar and Law Society representatives to consider additional outreach measures that could be utilised by NIJAC.	The Executive Team
7	<ul style="list-style-type: none">The Standardised Approach for high volume schemes to be revisited by Policy Committee at their next meeting.	Policy Committee
10	<ul style="list-style-type: none">The nominated Judicial and Legal Representatives of the Commission to be invited to attend the October Plenary meeting in an observatory capacity.	The Executive Team
12	<ul style="list-style-type: none">Board Effectiveness session to be a Plenary theme upon appointment of new Commissioners	The Executive Team
14	<ul style="list-style-type: none">The Executive Team to explore with TEO the possibility of NIJAC assisting them with an anticipated recruitment scheme.	The Executive Team