

**Minutes of the Plenary Meeting
Held on Thursday 18 October 2018
Headline Building, Victoria Street, Belfast**

Present: The Right Honourable Sir Declan Morgan, the Lord Chief Justice of Northern Ireland (Chairman)
Mr Paul Douglas
Mr Brian Coulter OBE
Ms Marion Matchett CBE
Mr Lindsay Todd

Observers:
The Rt Hon Mrs Justice Keegan
Ms Noelle McGreenera QC
The Rt. Hon. Lord Justice Stephens

In Attendance:
Mr Duncan Greer
Ms Adeline Frew
Mrs Tonya McCormac
Mr Andrew Millar
Mrs Julie Monahan
Mrs Nicola Byrne (Secretary)

1. Apologies

Apologies were received from the following observers: Mr Eoin Doyle QFSM, District Judge (Magistrates' Courts) Rosalie Prytherch and Mr Michael Robinson.

The Chairman noted that legislation which will permit the appointments of nominated Judicial and Legal Commissioners is anticipated by the end of October. Mrs McCormac advised that it is envisaged that the process of initiating a Lay Commissioner recruitment will begin in January which will aim to fill two vacant Lay Commissioner vacancies.

2. Conflicts of Interest

No conflicts were declared.

3. Confidentiality

The importance of confidentiality was stressed. The observers signed Confidentiality Statements.

4. Minutes of meetings

The minutes of the meeting on 7 June 2018 were approved.

5. Chief Executive's Report

Mrs McCormac thanked everyone for their time and assistance over the last number of weeks during her induction and helping her get to know the business. Mrs McCormac presented the Chief Executive's report to Plenary.

Business Plan 2018/19

Ms McCormac advised that all objectives are on track for delivery.

Risk Register

Plenary noted that the 2018/19 Risk Register had been formally reviewed by the Executive Team on 19 September 2018 and the one risk 'Loss of Commissioners' was noted. Mrs McCormac advised that the Executive Team met on 17 October 2018 and following review agreed that a new risk around governance oversight of complaints is to be further considered.

It was agreed that the Executive Team would undertake a benchmarking exercise against the Judicial Appointments Commission in England & Wales (JAC) and the Judicial Appointments Board in Scotland (JABS) to ascertain if this same issue affects them. The Chairman advised that the Office of the Lord Chief Justice (OLCJ) is currently reviewing their Complaints Policy and it may be worthwhile to source a copy of this.

- ***ACTION: Executive Team to undertake a benchmarking exercise against JAC and JABS and to source OLCJ new Complaints Policy.***

Budget Update 2018/19

Ms McCormac updated Plenary on the 2018/19 budget position noting an additional £68k in approved expenditure. The Executive Team have been meeting regularly to plan this expenditure with a number of key plans identified including Commissioners training and development opportunities, refurbishment of common areas occupied by NIJAC in Headline Building, work with the Northern Ireland Statistical Research Agency (NISRA), and a research project with one of the local Universities to independently report on perceptions within the legal profession of NIJAC and on potential barriers to individuals seeking judicial office. Mrs McCormac advised that following a discussion with the Chief Executive in JABS they would be happy to share with NIJAC their report on a recent similar research project.

The Chairman advised that following the recent survey of QCs, the Law Society have advised that they would be keen to explore the interests of Solicitors in this regard. It was agreed that Ms Frew would liaise with the Law Society to see what could be done, bearing in mind that the Law Society and its members will be key informants to NIJAC's commissioned research.

Mrs McCormac advised that The Executive Office (TEO) have indicated that the remuneration of daily fee rates is being considered. There are on-going discussions with TEO, however it is worth noting that this will need to be taken into account in the forecasting for the 2019/20 budget.

- ***ACTION: Ms Frew to liaise with the Law Society to explore the possibility of research amongst Solicitors.***
- ***ACTION: Executive Team to liaise with TEO to agree position on remuneration of daily fee rates.***

Outreach and Working with Others

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

Mrs McCormac advised that she has met with the Justice and Policy representatives in each of the five political parties who are keen to attend the Round Table event planned for 12 December 2018.

Mrs McCormac and the Chairman will be travelling to England and Scotland in November to meet with representatives from JAC and JABS.

Mrs McCormac advised that the Executive Team would be considering NIJAC's Engagement and Outreach Strategy to include targeted initiatives.

- ***ACTION: Executive Team to review NIJAC's Engagement and Outreach Strategy to include targeted initiatives.***

Staffing

Mrs McCormac advised that given the recent new appointments the Appointments Team is currently operating at full complement.

Complaints Commissioner and Issue and Character Commissioner

As Mr Brian Coulter is not seeking reappointment, Mr Paul Douglas has agreed to serve as the Complaints Commissioner (CC) however as he is serving on a number of schemes and is therefore conflicted, Mr Lindsay Todd has agreed to act as CC as a temporary provision. If the anticipated legislation is passed by the end of October and nominated Commissioner Appointments are able to be made, Mrs Justice Keegan will be nominated as Issues and Character Commissioner. If for any reason this is delayed, this appointment will need to be reconsidered.

Code of Conduct for Commission Members

Mr Greer advised that following a review the Code is being recirculated to all Commissioners.

Standing Committees: possible need for ongoing contingency

Plenary agreed that the contingency arrangements agreed in May 2018 should continue and be reviewed at December 2018 Plenary.

6. Selection Committees

Current Scheme Updates

- **District Judge (Magistrates' Court)** – Mr Todd advised that following final assessment, three successful applicants have been identified. Pre-appointment checks are complete and an appointment report will be issued to Plenary shortly for their consideration and approval. A Lessons Learned report will be presented to Plenary in December.
- **Mental Health Review Tribunal (MHRT) Legal Member** – Mr Douglas advised that following final assessment three successful applicants have been identified along with a Reserve List of seven. Pre-appointment checks are ongoing.
- **MHRT Medical Member** – Mr Douglas advised that the scheme is currently open to applications with a closing date of 22 October 2018. Discussion took place around the recent difficulty in attracting applicants from the Consultant and Psychiatrist Medical Profession and it was agreed that a meeting would be arranged with the Chair of the Royal College of Psychiatrists to discuss the potential barriers for this applicant pool.
- **MHRT Experienced Member** – Mr Douglas advised that the scheme is currently open to applications with a closing date of 22 October 2018.
- **Special Educational Needs and Disability Tribunal (SENDT) Legal Chairman** – Mr Douglas advised that a pre scheme meeting was held on 16 October 2018 and the scheme is due to advertise on 26 October 2018.
- **High Court Judge 2018**– The Chairman advised that a pre scheme meeting is arranged for 22 October 2018.

- **ACTION:** Chief Executive and Chairman to meet with Chair of the Royal College of Psychiatrists ahead of the next scheme.

7. Policy Committee

The minutes of 11 September 2018 were noted by Plenary.

Policy Committee Terms of Reference

Ms Matchett advised that upon review the Committee proposed a change to the wording of one of their Terms of Reference and the following wording was approved by Plenary:

“(b) directing a programme of work to ensure effective assessment and selection methodologies, based on good practice approaches designed to select fairly and on the basis of merit.”

- **ACTION:** Policy Committee Terms of Reference to be amended.

Shortlisting and Interview Moderation

Policy Committee had been asked by Plenary to consider the options for shortlisting and interview moderation. Ms Matchett advised that this was considered at the last meeting however Plenary agreed with the proposal that further benchmarking was required to include other jurisdictions and wider public sector practice.

- **ACTION:** Policy Committee to consider the information arising from the benchmarking and report back to Plenary in December.

Evaluation of Schemes and Appointments Made (October 2017 – September 2018)

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A Gender Overview: The NI Judiciary and Potential Legal Applicant Pools

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NIJAC's Impact 2006 to 2018 (Judicial Appointments)



Ms Matchett introduced each of the papers individually and advised that the evaluation of schemes provided information and a statistical breakdown relating to all schemes over the preceding 12 month period. In addition the report also provided comment on outreach activities, website use, feedback from applicants and budget. The gender report provided the projected gender breakdown of all judicial offices as at 30 September 2018. The 'Impact' report, which was a companion piece to the two preceding papers, set out the statistical record of appointments and the applicant pools since NIJAC's inception. Plenary considered the reports in detail and agreed the following actions:

- ***ACTION:*** *Age / community background related demographics of the applicant pool and appointees to be further investigated.*
- ***ACTION:*** *Executive Team to draft a high level presentation to inform the Politician's Round Table event.*

Reserve Lists

Ms Matchett advised that following a request from Plenary, Policy Committee had reviewed the Reserve List policies to ensure they were still fit for purpose. Ms Matchett advised that preliminary findings were that one Policy covering both fee paid and salaried posts would be more beneficial and that consideration should be given to including a 'default' reserve list for all schemes. Following discussion Plenary agreed that given concerns around the anticipation of applicants included on a reserve list and how the uncertainty of appointment may impact on their career, an exercise should be undertaken to consult with the professions to gather their views on the use of Reserve Lists at all levels of judicial office.

- ***ACTION:*** *Executive Team to consult with the legal profession to gather their views on the use of Reserve Lists at all levels of judicial office.*

Review of Policy Committee

Ms Matchett advised that she has now been Chair of Policy Committee for one year and considers it is an opportune time to undertake a review of the workings of the Committee. Ms Matchett has consulted with all members of Policy Committee including staff to ascertain how the Committee could potentially work differently. Following consideration of the responses received a discussion paper will be drafted for consideration at March Plenary.

- **ACTION:** Discussion paper on the workings of Policy Committee to be included in March 2019 Plenary agenda.

8. Business Committee

The minutes of 13 June 2018 were noted by Plenary.

The only matter arising was that Audit & Risk Management Committee had requested that Business Committee consider the retention of an 'indication of an unqualified certificate and report of the Comptometer and Auditor General' within NIJAC's Business Plan. Following discussion Plenary agreed to retain this objective within this financial year.

9 Audit and Risk Management Committee

Mr Todd advised that Audit and Risk Management Committee had met prior to Plenary and that any matters of note had already been addressed earlier in the agenda.

10 SART

Plenary noted the minutes of the SART meeting on 18 September 2018.

Standardised Approach for County Court

The Chairman presented the Standardised Approach for County Court schemes which was approved by Plenary.

Rating Scales

Plenary approved the new rating scales (including 0:10, 0:20 and 0:100) for use in all schemes which include a threshold of 70% at shortlisting and 80% at final assessment.

11 Any other business

Mr Brian Coulter OBE

Mr Coulter is due to leave NIJAC on 9 November 2018 and as this was his last Plenary meeting, the Chairman thanked them him for all his hard work and valuable contributions, advice and guidance during his time in NIJAC and wished him all the best for the future.

12 Date of next meeting

Wednesday 12 December 2018.

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

12 December 2018
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