

MINUTES

Board Meeting

Monday 31 January 2022 at 9.30am

Attendees: Paul Andrews (Chair)
Peter May Permanent Secretary
Daphne Johnston
Paul Mageean
Kerry McGill
Mandy McKay
Nicola Mullan (NICS HR)
Eamon O Connor (EAJD)

Secretariat: Kathleen McMenamin

LSA/21/61 Apologies & Declaration of Conflicts of Interest

- 61.01 The meeting was conducted on site. Apologies were received on behalf of Gillian McAfee from Financial Services Division.
- 61.02 No further conflicts of interest were declared, other than those previously noted. Daphne Johnston noted that she is now sitting on the AFBI Board.
- 61.03 The minutes from the previous meeting were agreed as accurate. EAJD provided a point of clarification in relation to paragraph 56.05.
- 61.04 The action points were discussed. The Chair advised that the HR action points would be discussed at Agenda item 5(1) HR Reports.
- 61.05 In relation to action point 172, the Chair noted that a draft brief for counsel was to be issued, which would result in a training event for the Appeals Panel members. This linked to audit recommendations in relation to inconsistency of decision-making. It was confirmed that both the chairs and panel members would be subject to the same training to ensure consistency.

- 61.06 The Chair confirmed that the January Monitoring Round would be discussed as part of the Agenda item 5(2) Finance Review.
- 61.07 The Chair provided an update on the Law Society meeting with the Minister of Justice, and confirmed that the Law Society had written to the Justice Committee following this meeting. It was noted that 58% of firms receiving payments from the Agency received less than £50k. The demographics of this were discussed, and it was noted that the Bar is carrying out a survey to look at the impact of increased payment processing times on the profession. The Law Society would also be conducting a survey, albeit a less targeted one.
- 61.08 It was noted that the Law Society had issued an agenda document to all party leaders and candidates, which includes an independent review of remuneration and recasting financial eligibility thresholds.

LSA/21/62 Shared Services Reporting

- 62.01 The Board noted the contents of the HR Report and Appendices.
- 62.02 NICS HR provided an update on employee absence, with 1,387 working days lost between April and November 2021, marking a 20.3% increase from the period last year. It was noted that across the department, there was a 45.9% increase in absences. However, a decrease in the monthly comparisons for October, November and December between 2020 and 2021 was highlighted. It was noted that the sickness absences were made up of both physical and stress related absences. Amongst those, there are two absences lasting over 12 months, and Senior Management were working closely with Employee Relations in relation to their return to work.
- 62.03 NICS HR updated the Board on Vacancy Management. As at 31 December 2021, there were 19 active vacancies across the Agency. The four vacancies at DPLO level had been filled at the time of the Board meeting. The Grade 7 CARB post was confirmed to be progressing

through security clearance. The DP Project Manager role was flagged as a departmental priority.

62.04 HR confirmed that they were in the process of sourcing candidates from various competitions across the grades. With regards to SO allocation, it is expected that the Agency will receive one staff member from the competition. It was confirmed that work has commenced on a new Grade 7 competition and noted that several middle management vacancies were long standing and a priority.

62.05 The Director of Operations and Head of Payments were highlighted as critical vacancies. The Permanent Secretary noted that Deborah Brown was currently considering these. It was further noted that for some of the vacancies, a higher security clearance was required, which can take up to four months to process. There was a discussion on transferring responsibilities, which require security clearance to another appropriate officer until clearance was passed.

62.06 The Board noted the Ernest Young review, which is being carried out. NICS HR confirmed that it covered vacancy management and all HR models on a departmental level, but was unsure if stakeholders would reach out on an Agency level. NICS HR confirmed that the Ernest Young review had issued questionnaires and engaged staff through meetings, so there was an opportunity for suggestions of improvement to be made.

LSA/A/176 NICS HR will confirm the scope of the Ernest Young review and notify the Board.

62.07 It was noted that HR issues are prevalent across all NICS departments, and that this should be factored into the risk management for 2023.

62.08 The sickness absence trend was noted as being consistent across NICS. NICS HR noted that the long term sickness absences were inflating the figures, and that these were on the cusp of resolution. Compliance was noted as an issue and was being addressed by Senior Management who have commissioned HR to provide training to Agency staff.

Nicola Mullan left the meeting at 10.05AM

- 62.10 The Board noted the contents of the Finance Report.
- 62.11 The Director of Corporate Services confirmed that the Agency had been successful in their £3.5m bid in the January Monitoring Round. Subsequently, the Agency aims to spend 9.5m in January, February and March. A potential income pressure was highlighted, which would determine the final amount available in March. As the degree of underspend is not yet finalised and to ensure the Agency remains within budget a further bid for £0.5m in the late supplementary stage was sought.
- 62.12 The backlog of Crown Court cases were noted as presenting a risk, due to the high value of these cases albeit a smaller volume. It was noted that the Magistrate's Court cases were likely to level, as the backlog is being addressed.
- 62.13 The Board queried if there could be a resourcing issue in meeting the spending aims before the end of the financial year. The Director of Operations confirmed that staff were working overtime, and were currently on target.
- 62.14 The Director of Corporate Services provided an overview of the impact of a reduced budget over the next spending period. It was noted that the recently procured LAMS contract resulted in a 37% reduction in cost. Overall, the impact of a reduced budget on unassessed values of bills and the corresponding payment times was emphasised. The Director of Corporate Services noted the Audit Office is due to commence their interim audit work on 14 February.
- 62.15 The Provisions update was noted by the Board.
- 62.16 The Board welcomed the overview of the methodology for identifying volumes and average costs (derived from LAMS) to calculate provisions. It was noted that large cases, particularly in relation to exceptionality, are dealt with individually as the case numbers are too small to draw a meaningful average from them.

- 62.17 It was noted that the Audit strategy would be issued today, and this would be circulated to the NEMs. Overall, a significant improvement in addressing the accounts qualifications was noted by NIAO.

LSA/A/177 NEMs to be provided with a copy of the NIAO Audit Strategy for 2021-22.

LSA/21/63 Engagement with Peter May

- 63.01 The Permanent Secretary congratulated the Agency on their continued delivery of services through the previous year, and recognised the various achievements of the Agency in spite of the pandemic.
- 63.02 It was noted that the Executive had reverted back to the Working from Home guidance that was in place before Christmas. The pilot for New Ways of Working was discussed, and it was confirmed that the Hybrid Working Policy would be driven centrally through NICS over a 3-month period.
- 63.03 There was a general discussion on the current political environment and the upcoming election. The potential impact of this on the Agency was discussed. The overall uncertainty meant that it is unlikely a budget would be agreed before the end of March. The Agency should anticipate having to work off last year's budget as a draft, and the risks surrounding this were discussed.
- 63.04 It was noted that the opening budget does not reflect what is needed to deal with business as usual and the expected growth due to recovery after the pandemic. It was recognised that the Agency's limitations were due to funding and not capacity. While the Agency can continue to avail of Monitoring Rounds and alternate sources of funding, the impact of the budget would be felt regardless.
- 63.05 It was noted that potential policy changes in relation to legal aid eligibility/fees would be unlikely to drive efficiencies in the short term to manage financial pressures.

63.06 EAJD stressed that if payment processing times rise, there will be an impact on work such as the Statutory Registration Scheme that rely on a good working relationship between the Agency and the profession.

LSA/21/64 Papers to Note

64.01 The Board noted the contents of the Operations paper. The Director of Operations provided up to date figures, and noted the overall significant improvement in payment processing times.

64.02 The Director of Operations noted that the team have processed £9.245m so far this month. The unassessed value was reduced to £16.9m, which is comprised of 13k outstanding requests, amounting to approximately 6 weeks of work for the Agency. There was a discussion on the management of staff to reduce the payment processing times.

64.03 It was noted that £2m of the unassessed payments was currently under query, and that an exercise was underway contacting the profession to obtain responses in order to finalise these payments. In general, all levels of service are being addressed to ensure an even spread of spending.

64.04 The CJINI report was raised, and it was noted that the outcomes were all very positive particularly in relation the work surrounding fraud and error. The likely recommendations were outlined, and the Director of Operations confirmed that they are implementing the feedback in a number of ways. The Agency expects to receive the draft report for fact checking before the end of March.

64.05 It was confirmed that there is planned engagement with PPS, with a letter to be issued on Friday on the management of multi-defendant cases.

64.06 The Board was updated on the Practitioner Error and Fraud Pilot, with the Pilot due to complete this week. The Agency will then meet with the Law Society and Bar to discuss the findings.

64.07 There was a discussion on the development of guidance both internally and for the professions to address common errors. The Permanent

Secretary noted the progress made and suggested that the Agency should reach out to the DoJ Communications team to raise awareness of the work of the Agency and improvements made.

- 64.08 The Board was updated on the legal advice being sought in relation to the Practitioner Fraud and Error Pilot to help address issues for the next phase of Practitioner Error and the Registration Scheme.
- 64.09 The Board noted the contents of the Corporate Services Highlight Report. An update was provided on the LAMS contract, with the transition plan due to be finalised by the end of the financial year. An update was also provided on the Data Management Project highlighting that aged and inactive cases outside of lifecycle were due to be reviewed in conjunction with the Profession by end of the financial year.
- 64.10 The Board noted the Premises Update. An update was provided on the premises move noting that the Agency had secured business case approvals and detailed specifications and design of fit out had been prepared and approved by CPD. The landlord was yet to issue 6 months' notice in Waterfront Plaza and that this could serve as contingency, should there be a delay in construction works in AIB scheduled to complete by August. Further contingency options were also being discussed with Estates Branch should further delays arise.
- 64.11 The error figures were reviewed by the Board, with early indicator official error figures standing at 5.3%. It was confirmed that an additional check was in place for high value payments, and new processes had been introduced in this area, with the impact being seen over the last quarter of the year.
- 64.12 There was a general discussion on cases referred to the Law Society and Bar in respect of the charging pattern of practitioners.
- 64.13 The EAJD report was presented to the Board. The Statutory Registration Scheme was discussed, the aim of which is demonstrate the delivery of quality and value for money. A written brief would be issued to the Minister and Justice Committee in February. A code of practice is also

being produced, setting out standards of professional conduct and systems for recording information. It was noted that EAJD were attempting to find a proportionate response to the issue of asking barristers to record information following the closure of a case, such as keeping an electronic record of indexes. File retention, GDPR and legal privilege were all identified as ongoing points of discussion.

Peter May left the meeting at 12.05PM

64.14 It was confirmed by EAJD that the fee charging methodology would be based on full cost recovery. The two options have been agreed as paying a flat fee across the board, or tapering the fee according to earnings. The Law Society is requesting a 12-week consultation and EAJD confirmed this has been agreed and they will continue to engage throughout the process.

64.15 There was a general discussion about the Domestic Abuse Waiver and the introduction of criminal charges. It was confirmed that this would be addressed fully in the next Board meeting.

LSA/21/65 Corporate Governance

65.01 The Board noted the contents of the Corporate and Business Planning paper which would be further developed for the next Board meeting,

65.02 The Board noted the contents of the Corporate Risk Register and it was agreed that the risk register would be revised based on the draft Business Plan for 2022-23. The budget was downgraded a risk rating due to the extra funding that had been secured and the reputational risk was also downgraded due to continued engagement with the Law Society and Bar. It was noted that these ratings might increase as a result of potential upcoming budget reductions.

LSA/A/178 The Agency will draft a revised risk register in March based on the draft Business Plan for 2022-23. A reconciliation will be presented of any current risks closed/redrafted and new risks arising.
--

65.03 There was a discussion in relation to the resourcing risk associated with the vacancies in the Agency, particularly for senior management. There was a general discussion surrounding HR resource planning, and the various ongoing competitions across the grades. The Board raised that there was a lack of innovation surrounding HR.

LSA/21/66 Forward Look

66.01 The Forward Look was noted by the Board. There was a discussion in relation to the Audit and Risk Committee, with the agenda and papers due to be issued today. It was confirmed that the CJINI Report should be finalised following a review by the Agency.

LSA/21/67 AOB

67.01 There was a brief discussion about the issues arising if there is a delay in moving into the new premises. While hybrid working and other NICS premises could be used in the interim, storage presented the main concern. It was confirmed that the Agency is planning for this contingency.

The meeting ended at 12.50PM.

Next Meeting: 28 March 2022 at 9.30AM.