



Department of
Justice
www.dojni.gov.uk



NORTHERN IRELAND LEGAL SERVICES COMMISSION (NILSC)

Criminal Justice Inspectorate Northern Ireland – A Corporate Governance Inspection of the NILSC

Action Plan

The NILSC has agreed the following Action Plan in response to the above report. Working in close partnership, the actions in the Plan will be delivered by the Department of Justice (DOJ) and the NILSC.

September 2014

Summary of recommendations from the Criminal Justice Inspectorate Northern Ireland report entitled ‘Corporate Governance Inspection of the Northern Ireland Legal Services Commission’ (NILSC) November 2013

Recommendations to the NILSC	DOJ Public Legal Services Division (PLSD)/NILSC Action Points & Comments	Action Owner	Target Completion Date	Actual Completion Date
<p>1. It is important to the continued reform of legal aid that the pace of this programme in moving criminal legal aid in the Crown and Magistrates’ Courts to standard fee arrangements is maintained and that its scope is widened to include more radical changes proposed by the Access to Justice Review Report (<i>CJINI report para. ref. 1.25</i>).</p>	<p>PLSD: Revision to Magistrates’ Courts fees commenced on 26 June 2014. Further reforms have been proposed to Crown Court fees which will be introduced subject to Justice Committee approval.</p> <p>Work is being taken forward on the development of standard fee arrangements for children and family cases.</p> <p>The recommendations in the Access to Justice Review are being taken forward by way of a comprehensive Departmental Action Plan.</p> <p>NILSC: The Commission will support the Department in the development and delivery of reform.</p>	<p>PLSD Grade 7 (Criminal)</p> <p>PLSD Grade 7 (Civil)</p> <p>Chief Executive (NILSC)</p>	<p>Autumn 2014</p> <p>April 2015</p>	
<p>Strategic Recommendation</p> <p>2. The sponsor department should, as soon as practicable, implement those recommendations of the Access to</p>	<p>PLSD: Arrangements are being made to transfer the functions of the NILSC to an Agency of the DOJ. This process will include steps to improve accountability, set out roles and responsibilities and improve financial</p>	<p>PLSD (Grade 7) Legal Services Transition Branch/PLSD</p>	<p>Start of the 2015/16 Business Year</p>	

<p>Justice Review which could improve governance in line with the principles set out by the Cabinet office of:</p> <ul style="list-style-type: none"> • accountability; • roles and responsibilities; • effective financial management; and • communications <p>along with fundamental reform of the substantive law and associated processes proposed (<i>para. ref. 2.7</i>).</p>	<p>management.</p> <p>NILSC: The Commission is working with the Department on addressing existing governance arrangements in preparation for Agency status.</p>	<p>(Grade 7) Corporate Governance</p> <p>Chief Executive (NILSC)/ Directors (NILSC)</p>		
<p>3. No matter what status is accorded to the NILSC, or what changes are made to the scope of legal aid, more focus will be required on how better to engage staff and how to provide motivation and support through a properly implemented and maintained appraisal regime (<i>para. ref. 2.17</i>).</p>	<p>NILSC: As part of its pay proposals (and move to Agency status) the Commission will move to the NICS performance management system. It will also undertake a comprehensive engagement process to improve staff motivation and support.</p>	<p>Chief Executive (NILSC)/Directors (NILSC)</p>	<p>April 2015</p>	
<p>4. Work already started on the standardising legal aid arrangements with regard to cost of expert witnesses should be completed and implemented as soon as possible (<i>para. ref. 2.30</i>).</p>	<p>PLSD: A consultation document on expert witnesses is being prepared for issue early 2015.</p>	<p>PLSD Grade 7 (Civil)</p>	<p>January 2015</p>	

<p>5. The Access to Justice Report commented that the administrative burden on both lawyers and NILSC staff in respect of criminal legal advice provided at police stations was disproportionate to the levels of payment.</p> <p>Whilst progress had been made on the regime of fixed fees recommended in the Access to Justice Report, Criminal Justice Inspectors believe that unless the current paper-based systems are completely overhauled in favour of a technology-supported system, the financial and time costs of administration will continue to be disproportionate (<i>para. ref. 2.31</i>).</p>	<p>PLSD: Fees payable for PACE interviews were increased with effect from January 2014.</p> <p>NILSC: Work has commenced to develop a technology-based system for processing requests and payments for legal aid which should provide a more acceptable administrative cost to process ratio. This work will focus initially on criminal legal aid which has well established standard fees. This work will be expanded to include standard fees in non-criminal cases which are being developed by the Department.</p>	<p>PLSD Grade 7 (Criminal)</p> <p>Director of Payments (NILSC)</p> <p>PLSD Grade 7 (Civil) / Director of Payments (NILSC)</p>	<p>January 2015</p> <p>June 2015</p>	<p>Completed January 2014</p>
<p>6. Structurally, Inspectors believe that the administration of civil and criminal legal aid could be shared i.e. one team could handle payment processing; however, this would be dependent upon:</p> <ul style="list-style-type: none"> • effective IT systems being in place e.g. online applications; • administration of criminal and civil 	<p>PLSD: Work is being taken forward to introduce a new remuneration scheme for civil cases. This work will be done on a phased implementation basis commencing in April 2015.</p> <p>NILSC: In February 2014 all staff processing payments have been brought under one Director and further revision of the staffing</p>	<p>PLSD Grade 7 (Civil)</p> <p>Director of Criminal Legal Services (NILSC)</p>	<p>April 2015</p> <p>April 2015</p>	

<p>legal aid;</p> <ul style="list-style-type: none"> • a regime of fixed fees for civil cases (similar to that for criminal cases) (<i>para. ref. 2.43</i>). 	<p>assigned to payments will proceed with the introduction of standard fees in civil cases.</p> <p>Work has commenced to develop a technology-based system for processing requests and payments for legal aid. As part of this work, forms for new civil fees will be designed to enable them to be submitted electronically.</p>	<p>Head of IT (NILSC)</p>	<p>September 2015</p>	
<p>7. A statutory registration scheme for lawyers should be developed, agreed and implemented as soon as possible in tandem with any proposed restructuring undertaken by the DOJ (<i>para. ref. 2.43</i>).</p>	<p>PLSD: Since legislation will be required, DOJ has taken over lead responsibility for consulting on the scheme. Work is ongoing to implement a registration scheme for all lawyers who undertake legal aid work. A consultation exercise was launched in July 2014 and will close in October 2014. It is anticipated that the registration scheme will be in place by January 2015.</p> <p>NILSC: To implement the registration scheme in keeping with the legislative timetable.</p>	<p>PLSD Grade 7 (Criminal)</p> <p>Director of Civil Legal Aid & Policy (NILSC)</p>	<p>January 2015</p>	
<p>8. A complete review and mapping of business processes operating within the NILSC should take place as soon as</p>	<p>NILSC: Work has commenced to develop a technology-based system for processing requests and payments for legal aid. A</p>	<p>Director of Corporate Services</p>	<p>April 2015</p>	

<p>possible to inform the development of a comprehensive electronic-based system of applying for legal aid and for data handling within the NILSC (<i>para. ref. 2.44</i>).</p> <p>Additionally, a staffing review should also be carried out to ensure that the Commission is appropriately structured and grades reflect the work undertaken.</p>	<p>fundamental part of this work is the development of a strategic outline business case for the replacement case management system. This will be informed by a review of the existing business processes to enable the design of future processes that the new system will be required to deliver.</p> <p>PLSD: Work has commenced on a staffing review. This work was commissioned by PLSD and is being conducted by Business Consultancy Services (DFP). Phases 1-2 have been completed, with phases 3-7 commencing in April 2014.</p>	<p>(NILSC)/Head of IT (NILSC)</p> <p>PLSD (Grade 7) Corporate Governance</p>	<p>December 2014</p>	
<p>9. Linked to an overall strategy for adjudication, standardising fees would potentially reduce the present churn of communication, mostly in hard copy, that occurs between lawyers and the NILSC when funding applications are refused.</p> <p>This, along with other reforms, has the potential to reduce the number of cases referred to the appeals panel, which at present overturns between 40% and 50% of those cases refused funding by the adjudicators on initial application.</p> <p>Criminal Justice Inspectors also agree</p>	<p>NILSC: It is not anticipated that standardised fees will have any significant impact on communication in respect of refusal of legal aid. Written reasons for refusing civil legal aid applications are now provided by the NILSC which should help to focus appeals.</p> <p>PLSD: As part of the work involved in establishing an Agency which will assume the functions of the NILSC new arrangements are being put in place to create independent Appeal Panels, which will ordinarily deal with appeals on paper. The new appeal arrangements should help to reduce the total cost of the appeal process.</p>	<p>PLSD (Grade 7) Legal Services Transition Branch</p>	<p>Start of 2015/16 Business year.</p>	

<p>with the recommendation of the Access to Justice Report with regard to reforming the system of appeals that operates when adjudicators refuse funding.</p> <p>The appeals panel in operation at the time of inspection fieldwork was composed entirely of lawyers, and the process included sometimes lengthy oral hearings. Bringing the appeals system in-house and discarding the need for oral hearings would have significant impact on establishing a more effective system of financial management and accountability, both identified as principles of good governance by the Cabinet Office (<i>para. ref. 2.49</i>).</p>	<p>NILSC: There is a statutory right to oral hearings which will continue until the new legislation is introduced to create a new predominately paper-based appeals process. The principle of an independent appeals process remains at the centre of the new appeals proposals.</p>			
<p>10. At the time that the report was drafted (November 2013) a consultation into how to deal with money damages outwith the scope of legal aid had been launched by the DOJ. This set out the projected savings to the legal aid fund expected to be delivered by the removal of money damages from scope. Criminal Justice Inspectors support the recommendation to remove money damages from the</p>	<p>PLSD: On 2 July 2014 the Justice Committee was briefed on the responses to the public consultation. Proposals for change will be put forward in the Autumn.</p>	<p>PLSD Grade 7 (Civil)</p>	<p>Autumn 2014</p>	

<p>much more emphasis placed on performance management within the NILSC to align individual and organisational goals with strategy and vision (<i>para. ref. 3.12</i>).</p> <p>Note: this recommendation is also linked to 3 above.</p>	<p>goals.</p>			
<p>13. Criminal Justice Inspectors previously recommended that business processes should be mapped prior to developing electronic systems of applying for legal aid. In addition, as part of the reform of the administration of legal aid business processes should be revised to enhance clarity.</p> <p>Performance measures should be designed as an integral part of the reform programme reflecting the revised business processes and should be directly linked to the organisation's vision and corporate objectives (<i>para. ref. 3.13</i>).</p>	<p>NILSC: The Commission routinely revises business processes with reforms. This will continue with the wave of civil reforms. In addition, business processes are being reviewed as part of the Staff Inspection process. This will be aligned to the work on reforms to streamline processes.</p> <p>Performance measures are being set to reflect organisational goals and discussions are ongoing with DOJ in respect of the Business Plan for 2014/15.</p> <p>The measures for 2015/16 will reflect the Department's intentions from the implementation of new civil fees.</p>	<p>Director of Criminal Legal Services (NILSC)/Director of Civil Legal Services & Policy (NILSC)</p>	<p>April 2015</p> <p>September 2014</p> <p>April 2015</p>	

<p>14. The links between performance measurement within the NILSC and delivery had not brought about the scale of change necessary to address the criticisms contained in the numerous oversight reports.</p> <p>Performance information that may enable better forecasting on the civil legal aid side was not systematically harvested. For example, adjudicators were not required to provide estimates of cases that were progressing through the system following passage through triage system. Criminal Justice Inspectors found no direct link between the work in progress within adjudication and financial forecasting.</p> <p>Analysis and measurement of those cases sitting within adjudication should be introduced as soon as possible and that the information obtained should be used to improve the overall forecasting regime (<i>para. ref. 3.20</i>).</p>	<p>NILSC: A dedicated Forecasting and Management Information Unit (FMIU) has been established and a forecasting project to develop a comprehensive forecasting methodology is in place with membership drawn from the Commission and DOJ (PLSD and FSD).</p> <p>The FMIU has access to the applications registered data from MI so there is no requirement to harvest information from adjudicators.</p> <p>The forecasting project is developing new procedures to underpin a revised forecast methodology.</p>	<p>Director of Corporate Services (NILSC)/Business Manager (Finance) (NILSC)</p>	<p>June 2014</p> <p>June 2014</p> <p>July 2014</p>	
---	---	---	---	--