

**MINUTES OF THE 460th MEETING OF THE LABOUR RELATIONS AGENCY BOARD
HELD AT 10.00 am ON THURSDAY, 17 DECEMBER 2020
VIA VIDEOCONFERENCE**

Present: Marie Mallon (Chair)
Louise Crilly
Deirdre Fitzpatrick
Michelle McGinley
Gary McMichael
Alison Millar
Albert Mills
Daire Murphy

In Attendance: Don Leeson Chief Executive
Paul Lowe Interim Director, Corporate Services
Mark McAllister Director, Employment Relations Services
Alison Wolfe Minute Secretary
Sarah Livingstone Boardroom Apprentice

Apologies: Jill Minne

Board members met 'in-camera' prior to the formal commencement of the meeting. The key points from this discussion are recorded at agenda item 1.

The Chair welcomed Don Leeson and Paul Lowe in their new roles as Chief Executive and Interim Director of Corporate Services respectively.

Declarations of Interest: no conflicts of interest were declared.

1. Chair's Opening Remarks

- 1.1 The Chair reported that she had recorded a Christmas video message for staff thanking them on behalf of the Board for their work throughout the year and expressing regret that the annual Board/staff get-together could not take place because of Covid-19 restrictions.
- 1.2 The Chair reported that she had used the in-camera session to update Board members on the Board appointments process. The timetable for the appointment of new Board members might be delayed by a month or so and consequently current Board member appointments might need to be further extended.

- 1.3 Arrangements are being made for the Chair and Senior Leadership Team to meet new DfE Deputy Secretary, David Malcolm, in January 2021 to discuss next steps regarding the University of Warwick research to underpin a new employment relations model for Northern Ireland. The outcome will be reported to the next Board meeting. In the meantime, the final version of the research report is due to be received by the Agency before Christmas and will be circulated to Board members.

Action: Chair/Chief Executive

- 1.4 The Chair reported on the last NI Engagement Forum, which was held on 26 November 2020. The Forum received an update from Mike Brennan on the economic impact of Covid-19 and a briefing from PHA on contact tracing. The Forum has written to the First and Deputy First Ministers to offer help on a range of Covid-related issues. The letter has been acknowledged and a substantive reply is awaited. The next Forum meeting is scheduled for 13 January 2021.

2. Minutes of Previous Board meetings

- 2.1 The minutes of the meetings held on 29 October 2020 and 26 November 2020 (papers BP01-12/20 and BP02-12/20 respectively) were agreed for publication on the Agency's website.

Action: Secretary

3. Action Points from Previous Board meetings

- 3.1 The Chief Executive introduced the action points paper (paper BP03-12/20).
- 3.2 The Director of Employment Relations Services reported on his meeting with the Equality Commission to discuss the delivery of workshops to promote the Joint Declaration of Protection. It is intended that the workshops will use case studies provided by members of the Employment Relations Roundtable covering race and gender issues.

Action: Director of Employment Relations Services

- 3.3 The Director of Employment Relations Services reported on the annual review of employment law, at which he presented to almost 200 attendees, many of whom were SME employers.

3.4 The Chief Executive reported that there are two data collection issues outstanding in relation to the Agency's outcome based accountability scorecards. Consideration is being given how best to collect feedback on webinars, which have replaced the public seminars and workshops. Additional funding has recently been provided by DfE as part of January Monitoring to install an automated telephone questionnaire to collect feedback from Workplace Information Service users.

Action: Director of Corporate Services

3.5 The Chief Executive plans a further discussion with the legal adviser regarding the impact on the Agency of the outcome of a Court of Appeal judgement involving the Charity Commission for Northern Ireland.

Action: Chief Executive

3.6 Corporate governance policies will be reviewed to ensure they are up-to-date for the induction of new Board members. The updated policies will be presented to the Audit and Risk Assurance Committee and Board in March 2021.

Action: Director of Corporate Services

3.7 The Agency's approach to staff health and wellbeing has been reviewed, in consultation with the Trade Union Side. This concluded that the current approach is well received and effective, and should be maintained. Arrangements are being made for a series of motivational speakers to help boost staff morale. This will start with DfE Permanent Secretary, Mike Brennan, addressing staff on 20 January 2021. Board members will be invited to attend.

Action: Chief Executive

3.8 It was agreed to invite the Minister for the Economy to a Board meeting to welcome the new Chair and Board members.

Action: Chief Executive

3.9 The Employment Relations Group sub-group on James House has approved a revised design, which incorporates more collaborative working space. The design will be shared with Board members.

Action: Chief Executive

3.10 Papers on Strategic Themes 1 and 3 for the new Corporate Plan have been prepared and will be circulated ahead of the January 2021 Board meeting to provide an opportunity to make comments by correspondence.

Action: Chief Executive

4. Chief Executive's Report

- 4.1 The Chief Executive presented his report (paper BP04-12/20) and highlighted a number of issues.

Oversight and Liaison meeting with DfE

- 4.2 The Agency received strong endorsement of its work from the new Deputy Secretary at the meeting, which was held on 14 December 2020. Like his predecessor, David Malcolm praised the robust governance arrangements in place.
- 4.3 The financial outlook is bleak, with scenario planning being undertaken on budget cuts of 4% and 8%. While the Agency is unlikely to have its budget reduced, additional funding of almost £1 million is needed to offset pressures in 2021-22.

Staff recognition

- 4.4 Board members approved a proposal to recognise staff's achievements during the Covid-19 pandemic, including the Investors in People Gold standard.
Action: Chief Executive
- 4.5 A proposal for a formal recognition and reward scheme is contained within the report from the Finance and Personnel Committee (see below).

Alison Millar declared an interest in the next matter and left the meeting.

Grievance

- 4.6 A staff member has exercised their right to move to a final stage grievance appeal. This will be heard by a Joint Appeal Board as constituted by the Grievance policy, which comprises a Chair from the panel of Arbitrators, a nominee from NIPSA HQ, and a Board member. Gary McMichael and Deirdre Fitzpatrick volunteered, depending on dates and gender requirements to ensure a balanced panel.

Action: Chief Executive

- 4.7 The Board recommended that, as part of the current review of the policy, consideration be given to stipulating that the employee representative on the panel is from a union other than that representing the Agency's staff and the use of an independent Board member (i.e. not from an employer or employee background).

Action: Chief Executive

Alison Millar re-joined the meeting.

Board Standing Orders

- 4.8 The Board noted that the internal audit of the business impact of Covid-19 recommended changing Standing Orders to allow for virtual meetings. This was agreed. This change will be reflected in the planned update of corporate governance policies in March 2021.

Action: Director of Corporate Services

Case Management and Recording System (CMRS)

- 4.9 The Board noted problems regarding the Early Conciliation web portal and the impact this is having on employer and employee representatives. Pending resolution of this matter, guidance on the portal will be reviewed to ensure that sources of help are clearly signposted to users.

Action: Director of Corporate Services

- 4.10 The Board noted the content of the Chief Executive's update. It was agreed that the use of a written report for the update is helpful and an efficient way to progress business.

5. Business Plan Performance Report for the period ending 30 November 2020

- 5.1 The Senior Leadership Team presented the Business Plan Performance Report (paper BP05-12/20).

- 5.2 The Board noted that demand for conciliation and the Workplace Information Service remains at a significantly higher level than the previous year.

- 5.3 Options are being considered for the technology platform to host the new document review service. The nature of this will be dependent on funding availability.

**Action: Chief Executive/Director of Corporate Services/
Director of Employment Relations Services**

- 5.4 The Chief Executive highlighted the need to commence planning for a conference in 2021; funding for this has been made available by DfE. A decision will be required regarding the format of the conference; virtual or physical, or a combination of both. Depending on the outcome of discussions with DfE in January, the University of Warwick research might be the key focus for the conference.

Action: Chief Executive

5.5 The Interim Director of Corporate Services reported that staff continue to work effectively from home. However, a recent health and wellbeing survey identified a worrying level of stress identified by staff. The HR team is developing an action plan to address this matter.

Action: Director of Corporate Services

5.6 It was noted an annual employment law update is normally provided by the Director of Employment Relations Services as part of the Board's Learning and Development Plan. However, given the current pressure on Board agendas, this will be held over until new Board members are in place. In the meantime, a recording of the Director of Employment Relations Services' presentation to the Legal Island conference is available; there will also be a live stream for staff in January 2021, which Board members may attend.

Action: Director of Employment Relations Services

5.7 The Board noted the content of the report.

6. Management Accounts for the period ended 30 November 2020

6.1 The Chief Executive presented the Management Accounts (paper BP06-12/20).

6.2 The Chief Executive reported that the Agency is on track to spend its resource and capital budgets in full. There is a slight underspend on capital linked to holding back funding on various capital projects pending costing of work to address web portal shortcomings. Confirmation that the Agency has received an additional £40k capital as part of January Monitoring; this will be reflected in the next management accounts.

Action: Chief Executive

6.3 The Board noted the content of the report.

7. Report from the Finance and Personnel Committee Meeting (1 December 2020)

7.1 The Committee Chair reported on the key points from the recent Finance and Personnel Committee meeting (paper BP07-12/20).

7.2 The Committee approved a proposal for a Diversity Champion from among staff; a Board member would mentor the staff member. It is envisaged that the staff member will become an expert in diversity and anti-discrimination issues, so that they pass on their knowledge to colleagues; they will also champion issues that Agency staff might wish to promote inside and outside of the workplace. The Board member will support them in this work and champion diversity issues at Board level. Daire Murphy volunteered to take on this role. A volunteer will be sought from staff members.

Action: Director of Corporate Services

7.3 The Board approved in principle a proposed approach to developing a staff recognition and reward scheme. It was noted that, in developing the scheme, cognisance will need to be taken of possible changes to the NICS special bonus scheme. A detailed scheme will be drawn-up for Board approval.

Action: Director of Corporate Services

7.4 The Agency Chair thanked the Committee Chair for his report and the Committee for its work.

8. Report from the Audit and Risk Assurance Committee Meeting (10 December 2020)

8.1 The Committee Chair reported on the key points from the recent Audit and Risk Assurance Committee meeting (paper BP08-12/20).

8.2 The Chair reported that the new mobile phone contract is now in place, which provides improved connectivity for staff.

8.3 It was noted that the NIAO representative on the Committee had reported to the Comptroller and Auditor General (C&AG) Board members' dissatisfaction regarding a matter raised in the Report to Those Charged with Governance. While the report was finalised without amendment, the C&AG has engaged with the Executive Office and Department of Finance to clarify guidance regarding payments to public servants who sit on boards; revised guidance is expected to be issued.

8.4 Very positive feedback was provided by Internal Audit on the Agency's response to the pandemic. It was noted that the auditor found that some expenditure was made without a purchase order being in place. While there was mitigation for this, the Committee had asked the terms of reference for a forthcoming audit of financial management arrangements be expanded to include some further testing of expenditure approvals to provide additional assurance. The outcome of this audit will be reported to the Committee and Board in March 2021.

Action: ARAC Chair/Chief Executive

- 8.5 The level of a risk within the Corporate Risk Register has been increased to reflect concern about the Agency's ability to maintain all services in light of a substantial increase in demand for conciliation services (see below).
- 8.6 The Committee has approved a draft revised policy regarding 'whistleblowing' for consultation with the Trade Union Side. The policy will be presented to the Committee and Board in March 2021, together with other updated corporate governance policies.

Action: Director of Corporate Services

- 8.7 The Agency Chair thanked the Committee Chair for her report and the Committee for its work.

Daire Murphy declared an interest in the next agenda item.

9. Terms of Reference for the Review of the Independent Appeal Service

- 9.1 The Director of Employment Relations Services introduced the paper (paper BP09-12/20). The terms of reference for the review were agreed. Deirdre Fitzpatrick volunteered to act as the Board reference point for the review.
- 9.2 It was noted that the timeframe to complete the review is May 2021, which means that it will be carried forward into next year's Business Plan.

Action: Director of Employment Relations Services

10. Resourcing Conciliation

- 10.1 The Chief Executive introduced the paper (paper BP10-12/20), which had been prepared as a result of a surge in demand for employer-led conciliation services from large organisations wishing to settle holiday pay liabilities. This comes on top of increased demand resulting from the economic impact of Covid-19. This demand exceeds resources. Furthermore, demand is set to increase when current furlough arrangements end and other employers seek to address their holiday pay position.
- 10.2 The Interim Director of Corporate Services provided further detail on the issue, including the statutory obligation to meet the demand for conciliation services. He also explained the process innovations being developed to ensure delivery is as streamlined as possible.

10.3 It was agreed that additional resources are needed for conciliation services to meet this demand and that the Agency should submit a bid to DfE for additional funding to bring in additional staff. However, while DfE colleagues are sympathetic to this, the public expenditure climate caused by Covid-19 will make this problematic. The Chair suggested that the Agency should seek an urgent meeting with senior DfE officials to discuss the matter.

Action: Chair/Chief Executive

10.4 It was noted that another key issue is the lead-time to train Conciliation Officers. Therefore, in the event that additional funding is forthcoming, the extra conciliation resources need to be found from within the Agency where the training lead-time would be lesser. It was agreed that a temporary promotion exercise should be undertaken and posts backfilled. It was also decided that the Agency should explore longer-term options as to how we can develop a more flexible approach to accessing conciliation resources to respond to fluctuations in demand.

Action: Chief Executive/Director of Corporate Services

10.5 The Director of Employment Relations Services reported on contingency plans being made in the event additional funding is not forthcoming. These involve staff being diverted from other services, such as advisory work. This is particularly problematic as advisory work will be critical to supporting post-Covid economic recovery. It was also noted that implementation of the new document review service may be delayed. Mediations and some independent appeal hearings may also have to be suspended.

10.6 Board members will be updated on developments at the next Board meeting.

Action: Chief Executive

11. Any Other Business

11.1 There was no other business

12. Date of Next Meeting

12.1 The next meeting of the Agency Board will be on Thursday 28 January 2021 at 10.00 am by videoconference.

Action: Secretary