

## COMMISSIONERS' STRATEGIC ISSUES MEETING 21 JANUARY 2015

Present: Chairman  
Professor Elizabeth Cooke  
Stephen Lewis  
Professor David Ormerod  
Nicholas Paines QC

Chief Executive  
Adrian Hogarth  
Sara Smith – Head  
of Strategic Planning

For part of Item 2:  
Phil Hodgson

Registry

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### Item 1: Minutes of the Strategic Issues meeting on 17 December 2014

1. The minutes of the Strategic Issues meeting on 17 December 2014 were approved subject to one substantive amendment, to include reference to the ongoing work to agree the programme for the Law Commission 50<sup>th</sup> Anniversary Seminar, being organised by the Society of Legal Scholars.

### Item 2: Matters Arising

#### 50<sup>th</sup> Anniversary

2. Phil Hodgson attended the meeting for this item. She provided an update on the plans for the 50<sup>th</sup> Anniversary celebrations. Invitations had been issued for the Scarman lecture, and responses had begun to arrive. The lecture was being advertised through various means, including engaging with fifteen of the legal membership organisations who were promoting the event to their members. Tickets were available via Eventbrite for general bookings.

3. The Chairman and Phil Hodgson then provided an update on the preparations for the event in Cardiff the day after the Scarman lecture. As advised at previous Commissioners' meetings, the format would be a panel discussion. The Chairman was glad to confirm that the Lord Chief Justice had now agreed to be a member of the panel, alongside Theodore Huckle, Counsel General of the Welsh Government and Sir Geoffrey Palmer. The Chairman would Chair the panel. The panel discussion was planned to last around 1hr 30minutes. The Chairman also noted that the Welsh Advisory Committee would take place earlier on the same day, and that he hoped Commissioners would be able to attend both events.

4. Phil then updated Commissioners on the Global Law Summit, taking place in February, where there was potential for the Commission to have a presence (either a stand or a speaking slot). She was continuing to work with the summit organisers to confirm.

5. Finally, Phil brought to the attention of Commissioners a meeting she had held with a contact in the House of Commons who leads on the CPD programme for MPs, and who was, in particular, preparing for the new intake of MPs who would be coming into the House for the first time post the General Election. There was potential for the Commission to be included in some of the CPD training that the House provides, including: the induction for new MPs; the House's directory of useful organisations; and the rolling programme of dedicated training. The Commissioners welcomed this, noting that it would be excellent if the work of the Law Commission could be communicated to MPs through these means. Phil would continue to

progress this work, and would report back on progress to Commissioners at a future meeting.

6. Phil Hodgson then left the meeting.

#### Framework Document

7. The Chief Executive provided Commissioners with an update. The Framework Document had been circulated by the Ministry of Justice (MoJ) Sponsorship Team to both Cabinet Office and HM Treasury. Cabinet Office had provided some comments, to which the MoJ had responded, subsequent to liaison with the Commission, which had resulted in no material change to the draft document. A similar process was now being undertaken with HM Treasury. The Chief Executive noted that she did not expect this to lead to any substantive change to the document, but that she would bring a revised version back to Commissioners if it became apparent that changes did need to be made. Once this part of the process was completed, the draft Framework Document would be sent to Catherine Lee, Director General, Law and Access to Justice Group ahead of being submitted to the Lord Chancellor for formal clearance.

#### Recruitment of Chairman and Non-Executive Board Members

8. The Chief Executive briefly updated Commissioners on the progress to recruit the new Chairman and two Non-Executive Board Members (NEBMs). There had been a great deal of interest from potential candidates for the role of Chairman. The Chief Executive had held several meetings to discuss the role with candidates, and the Chairman was also making himself available to talk to candidates.

9. The process to recruit NEBMs to the Commission could now start in earnest, with the approval of the Permanent Secretary to commence recruitment having been received. Commissioners had previously seen the list of potential candidates, and the Chief Executive would shortly start to make contact with candidates individually to gauge their interest in applying. The Chairman asked what the process would be to recruit the NEBMs. The Chief Executive confirmed that, once candidates had been approached and had expressed an interest in the role, then they would be asked to submit a CV and covering letter, and would then be invited to interview. Nicholas Paines asked whether the roles were remunerated – the Chief Executive confirmed that they were, at the standard government rate of £300 per day. The Head of Strategic Planning noted that they would be required for no more than 20 days a year, to attend and prepare for Commissioners' Strategic Issues Meetings.

10. The Chairman welcomed the progress that had been made so far, and noted his preference for having the NEBMs in place before his departure in the summer.

#### Commissioners' Awayday

11. The Chief Executive reminded Commissioners that, at a previous Commissioners' meeting, they had discussed holding a Commissioners' awayday, focusing on the future strategy of the Commission. The Chief Executive sought the views of Commissioners as to whether they still wanted to take this forward – Commissioners agreed that there was value in holding such an event. The Chief Executive noted that the 22<sup>nd</sup> April was currently a strong candidate for a potential date, with a lighter programme of Commissioners' business that day, and having the advantage of being during purdah. Commissioners agreed that this seemed a good choice. Professor Cooke asked whether it would be possible to hold the awayday

away from the Law Commission offices. The Chief Executive confirmed that was the intention, and noted that she would present the Commissioners with a proposal for the day at a future Commissioners' meeting.

### **Item 3. Protocol between Welsh Ministers and the Law Commission**

12. The Head of Strategic Planning introduced the paper on the draft Protocol between Welsh Ministers and the Law Commission, the draft protocol had been prepared by colleagues in the Welsh Government and sent to the Commission for preliminary comment. In particular, she brought the Commissioners attention to the final paragraph of the document, which described the potential role of the Welsh Government in non-Welsh law reform projects. The Chairman noted that the document needed to refer to the agreement being between Welsh Ministers and the Commission, rather than the current drafting which referred to the agreement being between the First Minister of Wales and the Law Commission. The Commissioners discussed the importance of ensuring the protocol enabled law reform projects, both those solely Welsh in nature, and those with no, or limited, Welsh dimension to be undertaken effectively. The Chief Executive also noted that there may need to be amendments to the main protocol, between the Lord Chancellor and the Commission, to reflect the new Welsh protocol and its jurisdiction over Welsh projects.

13. The Head of Strategic Planning would continue to work with colleagues in the Welsh Government, and would update Commissioners on progress at a future meeting.

### **Item 4. Commissioners' Pensions**

14. The Chief Executive introduced a short paper, for information only, advising Commissioners of changes to the by-analogy pension scheme of which they were members, to align with wider Civil Service pension reforms. The Commissioners noted the contents of the paper.

### **Item 5. Planning Grid and Progress Report**

15. Stephen Lewis brought to Commissioners' attention a proposal to amend the timetable for the project on the Transfer of Title and Change in Occupancy Fees in Leaseholds. The current timetable required the draft Consultation Paper to be discussed by Commissioners at their meeting on 20 May, with a publication date in June and responses due back in September, enabling interim recommendations to be provided to the sponsor department, in this case the Department for Communities and Local Government (DCLG), by the end of March 2016. The proposed revisions to the timetable would still provide interim recommendations to DCLG by the end of March 2016, but would see the Consultation Paper be discussed by Commissioners at their meeting on 15<sup>th</sup> July, published in early September, with a deadline for responses before Christmas. Commissioners discussed the revised timetable, and were content to agree it in principle however they noted that the 15<sup>th</sup> July meeting was already taking a number of papers for discussion, so suggested that the draft Consultation Paper could come to the meeting on either 1<sup>st</sup> July or 29<sup>th</sup> July instead. Stephen Lewis noted that he would discuss that with his team, and would confirm to Commissioners at their next meeting.

16. Professor Ormerod also raised a proposal to amend the timetable for Unfitness to Plead, moving the consideration of the draft report by Commissioners from the 18<sup>th</sup> March to the 15<sup>th</sup> May. This would have no knock-on effect on the

publication timetable, as it would not have been possible to publish the report during purdah, but would allow the team more time to work with Parliamentary Counsel on the draft Bill which will form part of the report. Commissioners agreed with this proposal.

17. In addition, Commissioners also agreed that the Scoping Consultation Paper for the Firearms project be added to the agenda for the 1<sup>st</sup> July meeting, that the Consultation Paper for Planning Law in Wales move from 1<sup>st</sup> July to 15<sup>th</sup> July, and that the Consultation Paper for Bills of Sale move to 1<sup>st</sup> July.

18. Commissioners also agreed that the meeting on 29<sup>th</sup> July, their last meeting before the summer break, would be kept free at this point as contingency.

#### **Item 6. Finance Report**

19. The Chief Executive introduced the Finance Report, noting that the previously reported underspend had been reduced by £250,000 as the Commission had been able to secure that funding being carried over into the next financial year to cover the future costs of projects. This was excellent news, and the Chairman and Commissioners congratulated the Chief Executive. Professor Ormerod asked if there had been any communications from MoJ as yet on the 2015-16 budget – the Chief Executive confirmed that there hadn't, but noted that she would keep Commissioners informed when those communications commenced.

#### **Item 7: Any Other Business**

20. No Any Other Business was raised.