

## MINUTES

### COMMISSIONERS' STRATEGIC ISSUES MEETING 17 JUNE 2015

Present: Chairman  
Stephen Lewis  
Professor David Ormerod  
Nicholas Paines QC

Chief Executive  
Adrian Hogarth  
(Items 1-3)  
Sara Smith – Head  
of Strategic Planning

Lord Justice Bean –  
Chairman Elect  
Justine Davidge for  
Item 4  
Matthew Jolley for  
Item 5

Registry

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#### **Item 1: Minutes of the Strategic Issues meeting on 21 May 2015**

1. The minutes of the Strategic Issues meeting on 21 May were approved with no amendments.

#### **Item 2: Matters Arising**

2. The Chief Executive provided Commissioners with an update on a number of areas:

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

3. The Commission had hosted a stand in the atrium of the Petty France building earlier that week, coinciding with the formal date of the 50<sup>th</sup> Anniversary. The stand had been manned by Commission staff at peak periods and leaflets and other information had been made available to anyone who visited the stand. There had been a steady stream of visitors – with colleagues from MoJ engaging Commission staff in conversation regarding the work of the Commission. A record of the questions raised had been kept, and the Head of Strategic Engagement would be using that, along with other feedback received, to help shape future events of this nature.

4. The next key event in the programme of celebrations would be the Parliamentary Reception which will be held on the 16<sup>th</sup> July. Invitations to the event had been issued, and early responses showed a good rate of acceptance, in particular from the judiciary. The event would include a specially commissioned Law Commission video which would showcase some of the achievements of the Commission. This was currently in production.

##### Recruitment of Law Commissioner and Non-Executive Board Members

5. The recruitment for a successor for Professor Cooke continued. Interviews will be held on Monday 6 July, and Ministers had agreed the potential list of candidates. Once those interviews were completed, a recommendation would be made to the Lord Chancellor as to the preferred candidate – it was also possible that he would want to meet with the candidate before formally giving his agreement to the appointment. The Chairman noted that he and the Chief Executive had met with the Lord Chancellor that week, and the Lord Chancellor had recognised the importance of completing this process before the summer Parliamentary recess to enable the new Commissioner to be appointed, and in post, as soon as possible.

6. With regard to the recruitment of the Non-Executive Board Member, the successful candidate had been written to and had accepted the role. A formal announcement would be made shortly. As noted at the previous meeting, the first Strategic Issues Meeting the member will attend is the 23rd September meeting.

#### Framework Document

7. The Framework Document had been submitted to Ministers for their approval. It is hoped that approval would be received ahead of Parliament rising for summer recess to enable the document to be deposited in the Libraries of the House.

#### **Item 3: Business Plan 2015-16**

8. The Chief Executive introduced the draft Business Plan for 2015-16, which had been developed in liaison with Team Managers. She noted that the plan should be suitably challenging and ambitious, while also being pragmatic and deliverable.

9. The Chief Executive drew Commissioner's attention to page four of the document, which set out the overarching objectives for the Commission for the year and in particular to the objectives relating to:

- a proposed review of the way in which the Commission produces publications;
- further work on internal communications and staff engagement;
- work on knowledge and information management, which was seen by Team Managers as a priority for the coming year to ensure the Commission maintained its corporate memory;
- the exploration of the opportunities offered to the Commission by the cross government The Way We Work (TW3) initiative, and new technology more widely;
- external relations, which focused on the opportunities provided by both the 50<sup>th</sup> Anniversary and the launch of the new Law Commission website; and
- finance and governance, which encompassed the work to fully implement the recommendations of the Triennial Review.

10. The Chairman thanked the Chief Executive for her work on the Business Plan and asked Commissioners for their comments. There was a brief discussion of the TW3 initiative, and the opportunities and challenges this could present for the Commission. In particular, the potential this had to impact on the working practices of the Commission in relation to increased flexible working. It was noted that, while Commissioners were supportive of flexible working practices, a sensible approach needed to be taken and it was important to ensure the continued high-delivery of the Commission.

11. Commissioners agreed that the Business Plan should be published without amendment.

#### **Item 4: Draft Welsh Language Scheme**

12. Adrian Hogarth left the meeting before discussion of this item.

13. Justine Davidge joined the meeting to discuss her paper on a potential Welsh Language Scheme for the Commission.

14. The Chief Executive noted there had been a long term objective to develop a Welsh Language Scheme. Historically, the Commission had been part of the MoJ Welsh Language Scheme, but that scheme as currently realised did not suit the needs of the Commission. MoJ have also been undertaking a long running review of their scheme, and there is no clarity as yet as to when they may launch a revised scheme. The Chief Executive commented that now was an appropriate time to leave the MoJ scheme, and for the Commission to have its own bespoke scheme which better supported the work and objectives of the Commission. The Commission was supported in this aim by the Welsh Advisory Committee, who were keen that the Commission develop a separate scheme. The Chief Executive commented that the proposed scheme, as drafted by Justine, sought to strike a balance between ambition and pragmatism, and demonstrated a serious and positive attitude towards translation into the Welsh Language.

15. There were some issues of policy to consider, as well as the specifics of the draft scheme itself. Commissioners discussed whether this should be a formal scheme, which would be ratified by the Welsh Language Commissioner, or a policy – and agreed that the latter would be more appropriate, but that it would be necessary to consult with the Welsh Language Commissioner to ensure she was content with that approach (and with the policy more broadly). The Chief Executive commented that it was important to provide Commission teams with clarity and to ensure consistency across teams in the approach taken. This policy would achieve that aim.

16. Commissioners then discussed some points of detail, including: clarifying that the policy only related to English and Welsh and not other languages; the appropriate and timely use of communications surrounding consultation events; how this new policy would be implemented on the Law Commission website; and the use of translations during interviews.

17. Nicholas Paines queried the legal standing of the policy, the Chief Executive noted that it would have no legal status as it would be a policy and not a scheme.

18. The Chairman thanked Justine for her work developing the draft policy. It was agreed that the amendments discussed to the policy would be made, and that an approach would be made to the Welsh Language Commissioner in order to discuss the draft policy.

#### **Item 5: Work Programme**

19. Matthew Jolley joined Commissioners for the discussion of this item to represent the Property, Family and Trust Team in the current absence of a Commissioner in that area.

20. The Chief Executive noted that the project grid, which had been circulated to Commissioners as part of their pack of papers for the meeting, highlighted a growing issue in regards to drafting. While it has always been expected that there would be a peak in terms of need for drafting capacity, the changes to timetables for some of the Commission's law reform projects meant that the turn of the calendar year could now be highly challenging. The Chief Executive noted that she would be meeting with the Office of Parliamentary Counsel to discuss this further with the hope of securing additional resource.

21. Commissioners then discussed the Programme Board Report. The Chief Executive drew their attention to the table at the end of the report which showed the latest position on projects which had been completed, but where the Commission is

still awaiting a response from government, and in particular to a number of projects where that response is overdue. Commissioners discussed whether there were actions that could be taken to gain a response from government.

22. Matthew Jolley noted that indications were that a positive response on the Easements project could be expected from government shortly. If government did accept the Commission's recommendations in this area, then this could be a candidate for implementation by way of the Commission's special procedure. He also noted that it was hoped a response from government on the Rights to Light project would be received before summer recess.

23. Professor Ormerod commented that he was hopeful of a response soon on the project on High Court Jurisdiction, where there may be appetite from government for implementing some of the recommendations.

24. The Chief Executive asked Commissioners whether they thought teams should start to approach departments where a response is due this year. There was broad agreement from Commissioners to this. Nicholas Paines noted that, on the Data Sharing project, a response was not due until July, but that the team could make contact with Cabinet Office shortly after that should a response not be received. Matthew Jolley noted that his team could start to make contact to chase a response on Conservation Covenants.

25. The Chairman commented that, in regards to the Level Crossings project, government had accepted the recommendations and had committed to develop an action plan. The Commission had yet to see a copy of that action plan, and the Chairman offered to write to the relevant department if that would help provide some traction.

26. The Chief Executive then asked Commissioners to consider the section of the report dealing with risk. She noted that many of the risks were not new: the risks relating to the Property, Family and Trust law projects all related to the absence of their Commissioner; and the risks relating to potential early termination of funding for projects had also been previously discussed. On this latter risk, the Commission had historically taken the position that the project should be completed, whether funding was withdrawn or not. In the current economic climate, it would be difficult to sustain this policy going forward.

27. Matthew Jolley then provided a brief update on the Marriage project, noting that there was a commitment to produce a scoping paper by the end of the year. To facilitate this, there would be a policy discussion with Commissioners in September, followed by a draft scoping paper being presented to Commissioners for their October meeting.

28. Finally, the Chief Executive commented that, over the summer, there would be a review of the various reports which were currently presented to Commissioners to ensure they were integrated and minimised the burden on Team Managers who provided the content for these reports.

## **Item 6: Finance Report**

29. The Chief Executive introduced the Finance Report, noting that she would also be presenting some additional financial modelling work at the Commissioners' next Strategic Issues Meeting in July.

30. She confirmed that there had still been no formal word from MoJ with regards to any potential cuts – either for this year or future years. She expected that there would be communications over the summer in preparation for the Autumn Statement.

31. Lord Justice Bean, Chairman Elect, asked whether it would be possible to collate data on the cost of the Commission over time in order to evidence the value for money of the Commission. The Chief Executive noted that she understood that data was already held, and could certainly form part of any negotiation over future budget.

#### **Item 7. Any Other Business**

32. The Chairman noted that the Commissioners, the Chief Executive and himself had that week met with representatives from the Law Subjects Association for their annual meeting with the Commission. The Chairman noted that the meeting had been useful, and that an annual meeting should continue to be held.

33. The Chairman also noted that he and the Chief Executive had met with the Lord Chancellor earlier that week. He had shown interest in a range of the Commission's projects, and most notably to the Criminal law reform projects.