

PPS Management Board

10.00am Thursday 29 September 2022

Via videoconferencing

Members: Stephen Herron
Michael Agnew
Marianne O’Kane
Glenn Houston
David Best
Peter Luney
JoAnne Quinn

In Attendance: Tom Murphy (Private Office)
Claire Harrison (Comms)

Secretariat: Policy and Information Unit

1. Welcome.

Mr Herron welcomed members to the September 2022 Management Board.

2. Apologies

None

3. Declaration of Board Members’ Interests

None

4. Management Board Minutes.

The previous minutes were agreed.

5. Actions from the Management Board Meeting of June 2022.

AP 11/22-23 Ms Quinn to provide more detailed analysis of the figures for Crown Court Briefs.

Cleared – see item 9.

6. Reports from Management Board Committee.

Senior Management Group 15 September 2022.

Mr Agnew provided an update of the matters discussed at the Senior Management Group Meeting of 15 September 2022.

Members were advised that, given the relative stable position of the Covid pandemic, it had been decided to stand-down PPS Gold Group. SMG would continue to maintain oversight of recovery work and Gold could be reinstated quickly should the need arise over autumn/winter.

Members were advised of concerns arising around availability of Counsel with volumes of work out stripping supply. It is also anticipated that in the event of a new call to the Bar, a number of junior counsel will become senior which would improve our position in respect of availability of senior but obviously have an impact on junior.

Ms O’Kane outlined an issue which has arisen with availability of counsel for prosecution of sexual offences, this has caused further concerns around succession planning. The Fees Manager is observing performance of counsel in the Magistrates Courts for the next panel competition.

Mr Best queried if there is the possibility of attracting counsel from other jurisdictions. Ms O’Kane advised that there are high volumes of work and demands for counsel across all jurisdictions. Mr Herron highlighted the requirements for counsel to be called to the Bar here and this therefore curtails flexibility of working in this jurisdiction.

Mr Houston flagged the possibility of industrial action by barristers in England and Wales and whether this would extend to this jurisdiction and if so, the potential impact and consequences to business delivery. Mr Luney advised that there has not been any notification received indicating the potential for this although there have been concerns raised regarding fees in the Magistrates’ Courts and an expectation that we will receive correspondence regarding a request for an increase in fees. There are similar levels of disquiet with senior fees however PPS are not yet directly impacted. There is a process to follow for these matters with the Bar and DOJ negotiating in respect of rates paid to Defence. PPS may in turn be required to review rates to reflect any changes made to defence rates. It was agreed that there is a risk that this may emerge as another cost pressure.

Mr Luney and Ms O’Kane updated members on discussions held at the recent Whitley Meeting, including the New Ways of Working and handling of Domestic Violence cases. The Operating Model and Route Map for the New Ways of Working have been agreed; the next step is to request staff to submit workstyle applications. The process is scheduled to be reviewed in 6 months however it was agreed that it would be beneficial to review progress on an ongoing basis. The priority is to ensure business needs are met. Mr Luney has agreed that the NWW Project Team will collate Workstyle Agreements, with a particular focus on those where flexible working is not deemed appropriate, to consider if there are systemic constraints that can be mitigated.

Ms O’Kane stated that in respect of the operating model, more frequent attendance at the office is required where performance issues have been identified, this is to provide support and to engender a team spirit. Line managers are required to engage and explain the operating model and the need for compelling reasons to depart from it.

Mr Houston highlighted the emerging pressures caused by the increasing volume of Domestic Violence cases. Mr Luney advised that there had been resistance to the specialist role when it was initially introduced and now in the current consultation there is opposition to the reversal of this position. A Proposals paper with data detailing the impact of the reversal has been tabled. The legitimate position adopted to ensure business needs are met is to increase the resourcing allocation to work on these cases. This approach will be implemented pending discussions and formal resolution.

People and Resources Committee – 1 September 2022

Mr Luney provided an overview of the matters discussed at the People and Resources Committee meeting of 1 September 2022.

Members were updated on resources, vacancy management and recruitment. There are challenges meeting the resourcing demands with a reliance on Agency staff. There have been several NICS General Service competitions and members noted that PPS tends to be an exporting department. Enquiries have been made to identify staff who have been successful so that experience is retained for any internal vacancies. The NICS embargo on secondments has been lifted, however internal requests will be considered on a case-by-case basis.

Mr Houston queried the refresh of procedures in respect of misplaced data. Mr Luney advised this issue had arisen due to staff not being in the office to take receipt of data. Refreshed instructions and guidance have addressed the issue and the process will be kept under review.

Following a question from Mr Best it was clarified that any vacant posts being filled are being approved by the Senior Management Team.

Performance and Delivery Committee – 5 September 2022

Members discussed and reviewed the minutes of the meeting of 5 September June 2022.

The Head of Statistics and Research Team provided members an overview of a new statistical interrogation and reporting tool that would enhance performance data. It was agreed that members would be consulted further on what data would assist in the identification of performance trends.

Members also noted that Mr Luney is taking forward resilience training. An urgent need for support has been identified and it has been agreed to progress resilience training and bespoke health checks for staff dealing with particular cases who have expressed developing welfare issues.

Mr Houston advised that information contained in the Assurance Report for the ARC had highlighted increased pressures in SCU, with a substantial increase in the volume of files unallocated, and the next few months likely to be a very challenging period for the team. Ms O’Kane outlined several actions that have been taken to mitigate pressures, including redeployment of staff to the section. The Business case to secure longer term resources is being finalised, however it is acknowledged that this is not a quick fix. There is also the issue that should the business case be approved there is no mechanism to release the funding.

Mr Luney outlined that redeploying resources simply creates pressures elsewhere, albeit that it helps us to manage higher priority risks. The current preferred solution is to redeploy the High Court Advocates as they can hit the ground running, however this is the most expensive option likely to put additional pressure on the counsel fee budget, and DRM will carefully consider the optimum solution.

Policy and Quality Committee – 8 September 2022

Members noted the minutes of the Policy and Quality meeting of 8 September 2022. Mr Agnew briefed members on several recent meetings convened to take forward disclosure issues, a staff instruction on the Abolition of Oral Evidence and a review of the Induction Programme. A further meeting is scheduled on 3 October 2022 to consider matters arising from the prosecution of domestic violence cases.

7. Strategic Improvement Board

Strategic Improvement Dashboard September 2022

Mr Agnew provided an update on the progress of the key projects. The abolition of Oral Evidence is due to complete on 17 October 2022. A review of the staff instruction is ongoing, and training has been scheduled for key staff week commencing 3 October 2022.

A Phased roll out of the Content Manager Project has been agreed with IT Assist. Discussions are also ongoing in respect of emails and information held in the libraries folder.

The RECS project is progressing with building work on the new centre scheduled for completion in January 2022. The Interim Evaluation report from DOJ was delayed and has now been rescheduled. The IT Assist development of a centralised booking diary has been delayed. Focus on meeting this project deadline has had an impact on delivery of the DEMS project.

Phase 2 of the DEMS project has been completed however due to competing IT priorities there has been limited progress on the roll out of phase 3 which involves sharing information electronically with Defence. Additional staff resource has been identified for Phase 3.

Migration to IT Assist will not be prioritised until after the implementation of the Abolition of Oral Evidence in November. There may be some scope for parallel development. All other projects have been scored in terms of priority and there is continued visibility of these.

8. Performance Summary.

Mr Agnew provided members with an overview of the Monthly Performance Summary for August 2022.

Members were advised of the number of decisions issued in the financial year to date and noted the 10% decrease on the three-year average at the equivalent point of the year. There has been no fluctuation in the decisions taken in the last 6 months and in addition to recovery backlogs this is a concerning trend.

In comparing the current financial year to date with the 3-year average caseloads have decreased across most areas however there has been a 10% increase in files received in categories 1-4

Mr Herron highlighted the increased figures for unallocated files and decisions pending which are in part arising from increased pressures in the volume of cases that are going into court.

Ms O’Kane detailed issues caused by defence statements being served whilst trials are ongoing. This would benefit from more Judicial case management and engagement with defence; however, it is noted that these are outside PPS control.

Mr Herron is scheduled to have a meeting with the Recorder and LCJ and will raise these issues and outline the pressures on resources brought on by an increase of approximately 55% more Serious Crime Unit cases listed than in 2019.

Mr Houston also raised pressures and demands emanating from the complex and high-profile legacy cases in the current caseload.

9. Finance Update

July Finance Report

Members reviewed and discussed the key financial issues being managed by Finance Team as of July 2022. There has been a significant overspend on admin and programme pay and counsel fees. It is anticipated at this stage of the year that the PPS will have an outturn adverse to budget with a projected pressure of £3.2m. This figure includes an additional allocation of £432k arising from increases in energy costs and pay.

Mr Herron briefed members on correspondence exchanges with DOJ, the LCJ and Director of NI Courts Service regarding the current financial position and impact on business delivery. It was noted that all are in a similar position with inescapable pressure of a demand led service and are facing similar challenges and risks in their approach. However, the responses confirmed a collective view that spending on year 2 of the recovery plan should continue at risk. The Attorney General has also been advised of the PPS’ financial concerns and a meeting is to be arranged to discuss as part of the consultative relationship between the offices.

The Senior Team have met with the DOF Minister and Supply Team to highlight pressures and risks with the existing funding arrangements and baseline allocation and the impact of continuing reliance on in year funding. The Minister, while noting the current political constraints and the lack of Monitoring Rounds, welcomed the presentation and the impacts on victims and the justice system from the current funding deficit. He said that he would be supportive of intervention to prevent the adverse impacts materialising if a political mechanism existed to do so.

Ms Quinn advised that more information on funding may become apparent in October particularly in relation to Recovery funding.

Members discussed and agreed that the uncertainty of funding is acute, and it is vital that savings measures are implemented immediately to mitigate the impact however it is noted the measures available to limit spending on staff and Counsel Fees are likely to have an adverse impact on performance. Without in year interventions there would have been overspends in previous years. There are inescapable pressures mainly arising from staffing and counsel costs. The impact of not delivering a service to the Courts would be catastrophic.

Mr Herron outlined that prosecuting authorities in other jurisdictions have been given extra funding to manage emerging pressures. The current baseline does not meet our recurring funding requirements and the inescapable pressures of delivering core business dictate that there is little scope for damage limitation.

Mr Luney advised that the savings options will be revisited and continued robust monitoring and management of staff vacancies and counsel fees. It was agreed that it would be beneficial to gather the views of the Assistant Directors and Heads of Business on how any further potential savings could be made.

AP12/22-23 Mr Luney to arrange a workshop with ADS and HOBs to discuss potential savings options.

Mr Houston highlighted the aspects of the role of Accounting Officer alongside the Director's responsibilities and the importance of implementing measures to curtail expenditure. Mr Best advised that the forecast would indicate year end overspend, and agreed it was essential to put in place mitigations as soon as possible.

Annual Report

Mr Luney provided an update on the Draft Report to those Charged with Governance. He referred to a prior year accounting error that cannot be fully resolved until the Assembly returns. Members discussed and noted that there will be a technical qualification of the Accounts in respect of this matter.

While trying to resolve this issue another matter arose in respect of the treatment /disposal of assets, although this had reflected entries made by other Departments. The NIAO raised issues, a figure of £53k has arisen in respect of disposal of IT assets in the year ending March 2022. The Accounts have been fully scrutinised and the error relating to this sum has not been identified.

Consideration is being given to bringing in an external expert to review these issues, subject to agreement of ARC. It is intended to have the Accounts laid by 21 October 2022 or as soon thereafter as practicable. The PAC statement of excess to be regulated. The Audit Office have made few changes and the final set of accounts will be reissued next week. This along with a revised Governance Statement will be agreed with the Board members by correspondence.

Mr Houston briefed members on his recent discussions held with the NIAO Audit Team. The draft RTTCWG contains 4 recommendations including a Priority 1 recommendation and management responses have been prepared in respect of each. It is noted that new processes have been put in place to address the issues raised in respect of counsel fees.

Fees

Members reviewed and discussed the report on Counsel Fee expenditure and noted the data pertaining to spend on each aspect of counsel fees. There has been a consistent upward trend and increased use of counsel in the Magistrates Court and for opinion work. Mr Luney noted the additional controls that had been agreed at DRM and which are now being applied.

10. People

RMT Update September 2022

Members reviewed and noted the RMT update for September, including staffing levels, recruitment, corporate social responsibility, training, and the PPS People Agenda.

NICS HR Summary Report September 2022

Members reviewed the NICS HR September report, including the latest figures for PPS staff, vacancies and recruitment, and compliance in respect of performance management and employee relations.

Members noted the requirement for all managers to ensure Personal Performance Agreements are in place for staff for 2022/23 in advance of the In Year reviews. It was also noted that all outstanding 2021/22 Performance Reviews should be prioritised for completion. The figures for long term absence cases and the reasons recorded for these absences were also reviewed and noted.

BCS Review

Ms O’Kane advised that the business case for additional SCU resources is being finalised, with some further discussions held regarding the resourcing requirements that are sought.

11. Governance Issues.

Corporate Risk Register 2022/23

Members discussed the 2022/23 Risk Register and noted the planned actions, mitigations, status, and rating of all the risks.

It was agreed to update the planned actions to include the additional steps to mitigate PPS Risk 9 - People Plan. Members also agreed that PPS Risk 8 - Operational Caseloads should be reviewed and the rating of PPS 5 – Funding Pressures should be revised upwards in 'likelihood' to reflect the current funding position.

AP13/22-23 Mr Luney to liaise with RMcG to review the risks in advance of the next SMG.

An issue has also been raised with the process for handling digital evidence at Belfast Chambers. Mr Luney advised that a revised protocol is to be drafted to address these issues.

Criminal Justice Inspection Report

Mr Agnew updated members on the progress of the CJINI inspection of Disclosure and File Quality.

Draft Reports on Transforming Justice and Leadership are anticipated in November/December 2022. A follow inspection on the Victim and Witness Care unit is scheduled for next Spring.

12. Papers for noting.

Communication Update.

Ms Harrison briefed members on the recent and ongoing key communication activities.

Communication Planner.

The Board Members discussed and reviewed the communications planner and update. Members discussed the postponed PPS Conference and agreed this should be reviewed again in the next financial year.

13. Next Meeting.

Video Conferencing 26 October 2022 at 10am.

Summary of Action Points arising from Management Board.

Meeting of 29 September 2022

AP 12/22-23	<i>Mr Luney to arrange a meeting with ADS and HOBs to discuss potential savings options.</i>
AP 13/22-23	<i>Mr Luney to liaise with RMcG to review the risks in advance of the next SMG.</i>

Action Points carried over from previous meetings.

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