

NI GUARDIAN AD LITEM AGENCY - BOARD MEETING 19th APRIL 2018

- Present:** Mr Bernard Mitchell, *Chair*
Mrs Gillian McGaughey, *Non-Executive Director*
Mr Peter Reynolds, *Chief Executive*
Mr Fred Smyth, *Non-Executive Director*
- In Attendance:** Mr Sean Brown, *Corporate Services Manager*
Mrs Teresa Fallon, *Assistant Director (joined 9.50am)*
Miss Patricia O’Kane, *Assistant Director*
Mr John Sheldon, *QA & Training Manager (left 11am)*
Mrs Caroline McConnell, *NIGALA Solicitor Panel (Item 17.18)*
- Apologies:** Dr Karen Winter, *Non-Executive Director*
- Minute Taker:** Mrs Ann Andrew, *Administration Manager*

START TIME : 9.35am

16.18 SERVICE DELIVERY – CAROLINE MCCONNELL, NIGALA PANEL SOLICITOR

- 16.18.1 Mr Mitchell welcomed Mrs Caroline McConnell, NIGALA Panel Solicitor (WB Thompson, Limavady) to the meeting and explained the Board is keen to keep in touch with the front line work of the Agency and its stakeholders. Mrs McConnell introduced herself confirming she had been on the NIGALA Solicitor Panel since 2015 and deals almost exclusively in family law, working mainly in the Coleraine/Derry court area. She confirmed she is also a member of the Solicitor Reference Group which meets approximately 4 times per year.
- 16.18.2 Mrs McConnell confirmed she would cover a number of areas in describing the role of solicitors and challenges they are faced with. She highlighted the immense pressure that all staff are under but stressed the commitment of everyone involved in family law and the representation of children and young people in the Courts.
- **Instruction of Experts:** Mrs McConnell confirmed the instruction of experts is proving to be increasing more difficult, firstly in obtaining the appropriate experts, secondly in getting their availability and thirdly in getting the funding for

them. She indicated that cases are becoming more complex and difficult. As an example, some cases might have 4-5 children, each with different needs and therefore requiring different experts. Mr Mitchell queried what might be done to improve the situation and it was suggested by Mrs McConnell that Experts need to be looked at in the early stages of a case with the HSC Trust taking on board what is being said by the expert and everyone signing up to moving the case forward at the outset.

- **Case Management:** Mrs McConnell discussed the management of cases which are ongoing for longer periods of time. She noted this is generally tied to the use of Experts but is also linked to court availability and court hearing time. She indicated that, for example, the Derry courts do not physically have the space to hold any more hearings which causes delay. It was noted that this was an issue for all cases and Mr Reynolds highlighted that the Care Proceedings Pilot also identified this as a concern. Mrs McConnell noted that the Solicitor Panel Reference Group is a good forum to discuss the regional picture as it has representatives from each area of the Province attending.
- **Funding:** Mrs McConnell referred to the proposed changes to the funding of the Legal Aid system. She noted that cases are currently time based however the changes mean that the fees paid will be less and travel time will not be covered. Legal Aid is a major concern to Solicitors and will impact how much work Solicitors will be able to do in a case. She confirmed that currently the fees for Solicitors have not increased since 1996 and now they will be decreased; Solicitors/Barristers do feel aggrieved by this. Mrs McConnell emphasised that Solicitors might have to restrict areas of work and prioritise what work they can do and noted the need for this to be discussed together to agree on what should be done going forward. Mr Mitchell queried if there is any current forum to do that? Mrs McConnell indicated that currently the Family Bar Committee and the Law Society Family Committee are the appropriate mechanisms. Mrs McGaughey noted that both Committees have put lot of time and effort in to mapping what activities are involved but the difficulties lie in what is a ‘typical’ activity. It was also highlighted the concern about workforce/succession planning as going forward Solicitors may not move into the area of Family Law as it is less lucrative. She emphasised that Solicitors are reliant on Legal Aid and noted the delays in the payment system. The growing costs of experts was also discussed.

16.18.3 Mr Mitchell thanked Ms McConnell for attending the meeting and confirmed that NIGALA thinks highly of the Solicitors they work with and are keen to continue to liaise closely with them.

Mrs McConnell left the meeting.

17.18 DECLARATION OF INTERESTS

- 17.18.1 Mr Mitchell provided an opportunity for the Board members to identify any conflicts of interest in respect of today's agenda. None were noted.

18.18 MINUTE OF PREVIOUS MEETING

- 18.18.1 The minute of the previous meeting of 15th February 2018 was agreed as an accurate record and approved.
- 18.18.2 The Confidential Minute from the meeting of 15th February 2018 was agreed by the Non-Executive Directors.

19.18 MATTERS ARISING

- 19.18.1 The matters arising and action plan from the previous meeting were reviewed and the Board noted progress on the actions listed.
- 19.18.2 **8.18.18 Article 56:** It was agreed at the last meeting that an update on the additional action taken to address the current waiting list would be brought to the next Board meeting.

Miss O’Kane referred to the paper *Update on Allocation Prioritisation* and outlined the consistency of approach taken by the Allocation Managers when dealing with the allocation of cases. She confirmed the Agency has an allocation policy but there will be instances where some cases need to take priority. Miss O’Kane gave the example of an Article 56 case and how Managers will review the information, placement/age of the children involved, etc. She noted allocation can be an evolving picture and so Managers may have to re-prioritise cases on the list. In the situation where a Guardian cannot be appointed, a solicitor is invited to attend Court and they then communicate an update to the Allocation Manager on the case which in turn might alter the priority of the case.

Mr Mitchell noted the paper offered assurance to the Board that this rigorous process covered all areas.

Miss O’Kane also noted that the new self-employed Guardians ad Litem have assisted with a number of cases on the waiting list. Mr Brown indicated that the Agency hoped to have an additional £150k in year for recruitment to ease the pressures on the system.

Mr Mitchell emphasised the need for transparency and the need to keep the DoH informed of all decisions. Mr Brown referred to the non-recurrent spend in the budget funding and confirmed it has now been consolidated as part of our core allocation.

Mr Smyth referred to succession planning and the need for the Agency to identify a proposal in line with funding to prepare for succession planning of the workforce over the coming years. He highlighted this should be considered a risk and added to the Risk Register. It was agreed that Mr Brown should prepare a short paper to the Board highlighting the future workforce requirements for the October meeting of the Board.

ACTION: Mr Brown to prepare a short paper on Workforce Planning for the October 2018 meeting of the Board.

ACTION: Succession Workforce Planning to be added to the NIGALA Risk Register.

20.18 CHAIR & NON-EXECUTIVE DIRECTOR’S BRIEFING

20.18.1 **Board Vacancy:** Mr Mitchell confirmed that the positions of Chair and Non-Executive Director (Finance) have both been advertised. Mr Reynolds/Mr Brown to provide induction. Mr Mitchell also confirmed that all 3 Non-Executive Director positions have had their terms extended.

21.18 CHIEF EXECUTIVE’S BRIEFING

21.18.1 Mr Reynolds provided his CEO Briefing Report covering the following areas:-

- **Shadow Family Justice Board:** At the meeting of the Shadow Family Justice Board in March it was agreed by Mr Justice O’Hara that Mr Reynolds should lead on setting up a group of relevant stakeholders to progress one of the actions from the Care Proceedings Pilot relating to the Introduction of Experts. He noted the first meeting has been scheduled for May 2018 and he will report back on progress at the next meeting.
- **Common Interest Debate:** NIGALA has issued an invitation to stakeholders to participate in a discussion to consider the current pressures and problems which exist across the family justice system and which impact on children in particular, a number of positive responses have been received (HSC Trusts, Law Society and DoH). The first meeting will take place in May 2018.

- **Care Crisis Review:** A Care Crisis Review is currently underway in England which is a ‘*sector led review*’ of the rise in applications for care orders and related to the number of children in care.
- **CAFCASS:** Cafcass has been rated ‘outstanding’ after an Ofsted inspection which found effective leadership, highly skilled staff and investment in technology and tools which help promote a ‘*child centred approach to practice*’. Mr Reynolds referred to statistics from Cafcass, DoH and NIGALA.
- **NIGALA Staff Engagement Session:** The NIGALA Away Day/staff engagement event is scheduled for the 30th April 18. Its aim is to engage with staff about how to manage the service in the context of an ongoing ‘*waiting list*’ scenario, restricted staff capacity and with limited expectation of any increase in budget from 2018 onwards.
- **NIAO – ‘Speeding up justice: avoidable delay in the criminal justice system’:** This is a report by the Comptroller and Auditor General and provides a wider perspective on the administration of justice in Northern Ireland, but with messages which resonate with family law.
- **Signs of Safety:** Mr Reynolds noted the Signs of Safety is a new approach to Child Protection with different language and a shift towards a relationship focus. Signs of Safety is sponsored by the DOH. A regional steering group with senior representatives of each HSC Trust is overseeing the implementation. NIGALA is now part of the implementation programme including staff training.

The Board suggested it would be useful for someone to attend a Board Meeting and provide an overview of ‘Signs of Safety’. Mr Smyth indicated it would also be helpful to have a summary for Board Members in advance of this arrangement.

- **Summary of CEO Engagements:** Mr Reynolds provided a summary of his CEO engagements since last meeting of the Board.

22.18 BUSINESS PERFORMANCE

- 22.18.1 Mr Brown referred to the *Business Performance Report as at 28th February 2018*. He spoke to the report and indicated that this report will cease going forward with most of the operational information being summarised and included in the new *Performance & Financial Report*.

23.18 FINANCIAL PERFORMANCE

Performance and Financial Report

23.18.1 Mr Brown referred to the new *Performance and Finance Report (as at March 2018)* and indicated this report would replace the Business Performance Report and Financial Performance Report going forward.

23.18.2 He confirmed the report would provide the Board on key issues and performance covering the areas of KPI performance, Business Plan performance, Workflow Management, Financial Performance and an Environmental scan.

23.18.3 **KPI Performance/Business Plan Performance:** Mr Brown highlighted the performance as at the end of February 2018. He confirmed that KPIs for 2018-19 will be reviewed at the July meeting of the Board.

23.18.3 **Workflow Management:** Mr Brown took the Board through the areas of interest, i.e. case numbers, case closures and workload position.

Mr Mitchell sought the views of the Non-Executive Directors on the new format and the qualitative information provided. Mr Smyth noted the report provides a reassurance that work is being completed effectively.

Mr Mitchell noted the Board were content to move to the new format of reporting. Any comments on the new format should be fed back to Mr Brown over the next two weeks.

23.18.4 **Financial Performance:** Mr Brown confirmed he met with the BSO last week and the Agency is due to breakeven at the end of 31st March 2018.

Mr Brown detailed the ring fenced projects which have been fed back to DoH. He noted the Year to Date expenditure and highlighted the key budget areas. Mr Brown noted he has raised with the DoH that the Agency would not have the funds to budget for any more pay rises going forward and would need any such awards to be funded separately. The prompt payment targets have been met.

Mr Mitchell congratulated the Chief Executive and Executives on breaking even following a difficult year. Mr Brown noted the Annual Accounts 2017-18 will be going to the Audit & Risk Committee in May and then to the Board in July for approval.

23.18.5 **Environmental Scan:** Mr Mitchell highlighted it was very useful that the Board was kept updated and informed via the Environmental scan.

Mr Mitchell referred to the Public Sector Accommodation Strategy and noted his concern. Mr Brown noted a meeting of the ALBs with the Asset Management teams will take place on 2nd May 2018. He noted that he has requested that the Trade Unions be fully involved in discussions. Mr Mitchell emphasised he would like the Board to be kept up to date as this is a significant issue for the Agency.

24.18 BUSINESS PLAN 2018-19

- 24.18.1 Mr Mitchell referred to the *NIGALA Business Plan 2018-19* which was previously approved by the Board. He indicated that following submission of the Business Plan to the DoH they have since received confirmation (*Ref: SH55, dated 12 March 2018*) that they are content with the Agency's objectives and the timescales for completion.
- 24.18.2 Mr Mitchell referred to Key Performance Indicators and Mr Brown confirmed that KPIs for the 2018-19 year will be discussed and agreed at the July meeting of the NIGALA Board.

25.18 GDPR

- 25.18.1 Mr Mitchell referred to the *Information Governance Policy* which has been reviewed as part of the GDPR preparations and following a recommendation in an Internal Audit Report on Information Governance. This approach has been discussed at the Information Governance Committee and is now before the NIGALA Board for consideration.
- 25.18.2 Mr Brown confirmed that he is the Personal Data Guardian (PDG) and Mr Reynolds is the Senior Information Risk Owner (SIRO) for NIGALA. Under GDPR the Agency is considered the Data Controller and BSO the Data Processor. Mr Brown noted that in the event of a breach by the Data Processor that under GDPR there will be implications for BSO for legal liability, including fines.
- 25.18.3 Members went through the Policy and highlighted the following for amendment:
- Page 9, Point 5.13 should read **Information Governance Committee** and not Information Governance Management Committee
 - The group will 'approve and have oversight of', not ensure the development of ...
 - Page 19, amend the bookmark error

- The role of the Information Governance Committee is one of oversight, monitoring and assurance. This should be reflected in the Terms of Reference.
- Page 29, Point 4.12 the ‘Responsibilities for Staff/Contractors’ should be put on a separate page

25.18.4 Mr Mitchell highlighted that any important guidance which we require people to observe should be extracted and detailed separately in a way that it is readily understandable.

25.18.5 Mr Brown confirmed he had met with the ICO and they have agreed to share the tools/materials used to promote GDPR alongside their presentation. The Board discussed GDPR and the rationale for the NIGALA holding personal information; Mr Brown confirmed that NIGALA’s holding of information is authorised under ‘Public Task’ as it is a requirement in order for NIGALA to fulfil its role under legislation.

25.18.6 The *Information Governance Policy* was approved subject to the proposed amendments. Mr Mitchell thanked Mr Brown for all the work undertaken in respect of this. Mr Brown indicated that the policy will be subject to changes as GDPR is embedded. Mr Mitchell noted the importance of annual information governance training for staff and Mr Brown confirmed that a new e-learning package is currently being developed and will be available shortly.

26.18 NIGALA GOVERNANCE STATEMENT

Governance Statement

26.18.1 Mr Brown referred to the NIGALA Governance Statement 2017-18 providing an effectiveness review of the governance arrangements in place in the Agency for the period April 2017 – March 2018. He indicated the statement follows a set layout as required by the DoH and this has been followed.

26.18.2 Mr Brown guided the Board through the statement and highlighted specifically

- **Sources of Independent Assurance.** Mr Brown noted that Internal Audit has provided satisfactory assurance on all NIGALA audits. Separately, they have provided assurance on a number of BSO Audits which they have completed. Assurance from the CEO of BSO should be received prior to the next Audit committee meeting.
- **Review of Effectiveness of the System of Internal Governance.** Review by the CEO.
- **Internal Governance Divergence.** Any prior control issues are reviewed.

- Mr Mitchell referred to the control issue re the NIGALA Culture & Climate Action Plan (point 10.1) and asked that this be updated with Ms McDaniel (DoH) and correspondence held on file noting same.
- The Board discussed point 10.2 (second paragraph) and if there was a need to highlight the legal status of self-employed Guardians ad Litem; it was agreed that this paragraph should remain.
- Mr Brown indicated that two other points have been added to the Statement, i.e. that NIGALA is ready for GDPR and that NIGALA is working with the DoH to mitigate any impact of Brexit.
- Mrs McGaughey requested that point 10.2 (first paragraph, 3rd line from bottom) be amended to read “... appoint guardians within the timetable prescribed by the Court” rather than ‘drawn up’ by the Court.
- Page numbers to be added to the Statement in addition to ‘Draft’ being watermarked across it.

26.18.3 The Board approved the *Governance Statement 2017-18* subject to the changes discussed, and were in agreement that the statement provided a fair reflection of the position.

ACTION: Mr Reynolds to liaise with Ms McDaniel, DoH in respect of the NIGALA Culture & Climate Action Plan

Head of Internal Audit Opinion

26.18.4 Mr Brown referred to the *Head of Internal Audit Opinion* for year ended 31st March 2018. He noted a ‘**Satisfactory**’ opinion on the Financial Review, Information Governance, Quality Assurance (case management) and Board Effectiveness audit assignments. No significant findings were identified during 2017-18.

27.18 BOARD SELF-ASSESSMENT ACTION PLAN 2017-18

27.18.1 Mr Mitchell referred to the *Board Self-Assessment Action Plan 2017-18* which was last reviewed by the Board in July 2017. He indicated it was good practice to bring back to the Board for noting. The Board reviewed the action plan noting the progress of each of the actions. Eight of the nine actions are complete with the other action not being due for completion until 31/3/19.

27.18.2 Mr Mitchell confirm the NIGALA Board Workshop has been scheduled for Friday 11th May 2018.

28.18 RISK**Risk Register**

- 28.18.1 Mr Brown referred to the *Risk Register* and guided the Board through the Register highlighting the risks, controls in place and actions planned. He noted the different categories for the risks, ie 'live', 'closed' and 'abeyance'. Mr Brown noted there has been one new risk added to the Register in respect of 'NIGALA failing to implement GDPR'.
- 28.18.2 The Board discuss the wording of the risks and it was agreed that there would be a separate session arranged outside of the Board meeting to discuss the formatting of the Risk Register going forward.

Risk Management Strategy

- 28.18.3 Mr Brown referred to the *Risk Management Policy and Strategy 2018-20* setting out arrangements in place of the management of risk in NIGALA over the next two years. The Strategy is in line with revised DoH guidance.
- 28.18.4 Mr Brown noted the major change in the policy is the standing down of the Risk Management Committee which will now be managed directly through SMT where Risk will be discussed at each SMT meeting and the Risk Register formally reviewed quarterly.
- 28.18.5 The Board discussed the proposed changes and agreed the *Risk Management Policy and Strategy 2018-20*.
- 28.18.6 Mr Mitchell referred to the *Action Plan for 2018-2019 (Appendix 1)* and noted there was no reference to the Audit & Risk Committee; he asked that this be reflected. Mr Mitchell confirmed that the Information Governance Committee and Social Care Governance Committee also review the risks relevant to themselves with overarching responsibility through the Audit and Risk Committee to the Board.

ACTION: Mr Brown to update the Action Plan for 2018-2019 in the Risk Management Policy and Strategy 2018-20.

29.18 GOVERNANCE FRAMEWORK

- 29.18.1 Mr Brown referred to the *Governance Framework* which provides the Board with an overview of the governance arrangements in place for NIGALA. He indicated the framework had previously been before the Board and all amendments have since been incorporated into the framework. Mr Brown indicated it would be good practice to review the framework on an annual basis.
- 29.18.2 Members noted this was a good piece of work. Mr Brown indicated this can also be used as an assurance to the Permanent Secretary that the Board are getting all the assurances required following the standing down of controls assurance process.

30.18 BOARD COMMITTEE MEETINGS SINCE LAST MEETING OF THE BOARD

Audit & Risk Committee – 12th March 2018

- 30.18.1 Mr Smyth noted a meeting of the Audit & Risk Committee took place on 12th March 2018. He indicated the meeting addressed business as usual. Mr Smyth highlighted the Committee had requested Internal Audit routinely meet with the Chair of the Audit & Risk Committee and the CEO prior to agreeing the Internal Audit Plan with the Committee. Mr Brown indicated that Internal Audit should meet with the Chair of the Committee and CEO as part of the year end process. Mr Mitchell asked that Mr Brown speak with Internal Audit about this.

Mr Smyth highlighted the importance of ensuring KPIs are set appropriately and not set so they are unachievable.

ACTION: Mr Brown to liaise with Internal Audit over their year-end meeting with the Chair of the Audit & Risk Committee and CEO.

31.18 DEPARTMENTAL CORRESPONDENCE

Review of Controls Assurance Standards

- 31.18.1 Mr Brown referred to correspondence in respect of *Review of Controls Assurance Standards (CAS)*, Ref: RP2213, dated 30th March 2018 from Mr Richard Pengelly.

He confirmed that Controls Assurance would cease from 1st April 2018. Departmental Policy Leads have been engaging with their counterparts in the ALBs to ensure that

suitable and proportionate assurance arrangements are in place and where a slight delay is anticipated, appropriate contingency arrangements have been put in place.

Mr Brown referred to Information Governance assurance and confirmed a new checklist is in place for this.

NIGALA Opening Allocation 2018-19 Letter

31.18.2 Mr Brown referred to correspondence in respect of *Financial Allocations for 2018-19*, Ref: HE1/18/54666NIGALA1, dated 30th March 2018 from the DoH.

He confirmed an allocation of £4,082,790 which is inclusive of an £11k reduction. He noted this would be made from the Goods and Services budget. Mr Brown highlighted the allocation figure also includes £360k which is allocated on a recurrent basis to address increasing demand. This has now been consolidated. Mr Brown referred to the business case for £150k to alleviate pressures and confirmed this has been agreed for a 2-year period.

Mr Brown noted that the Business Plan has been set on having a full budget. Mr Mitchell and Mr Smyth thanked Mr Brown for his ongoing work in this regards. Mr Smyth emphasised the importance of having a consistent approach with the Department when Mr Mitchell steps down.

32.18 ANY OTHER BUSINESS

32.18.1 There was no other business for discussion.

33.18 CONFIDENTIAL ITEMS

33.18.1 There were no items for discussion.

END TIME: 12.30pm

DATE & TIME OF NEXT MEETING: 5th JULY 2018 @ 9.30am

Mr Bernard Mitchell, Chair NIGALA

BOARD MEETING - ACTION LIST

Ref	Subject	Action	Person Responsible	Progress for Board meeting – July 2018
19.18	Matters Arising:	Mr Brown to prepare a short paper on Workforce Planning for the October 2018 meeting of the Board.	Mr Brown	Carried Forward
		Succession Workforce Planning to be added to the NIGALA Risk Register.	Mr Brown	Complete
26.18	Governance Statement	Mr Reynolds to liaise with Ms McDaniel, DoH in respect of the NIGALA Culture & Climate Action Plan	Mr Reynolds	Complete
26.18	Risk	Mr Brown to update the Action Plan for 2018-2019 in the Risk Management Policy and Strategy 2018-20.	Mr Brown	Complete
30.18	Audit & Risk Committee	Mr Brown to liaise with Internal Audit over their year-end meeting with the Chair of the Audit & Risk Committee and CEO.	Mr Brown	Complete