

NI GUARDIAN AD LITEM AGENCY BOARD MEETING – 27th October 2020

Present: Mrs Gemma Loughran, *Chair*
Mr Peter Reynolds, *Chief Executive*
Ms Veronica Callaghan, *Non-Executive Director*
Mr Fred Smyth, *Non-Executive Director*
Mr Lee Wilson, *Non-Executive Director*
Mrs Gillian McGaughey, *Non-Executive Director (joined 11am)*

In Attendance: Mr Sean Brown, *Corporate Services Manager*
Mrs Teresa Fallon, *Assistant Director*
Miss Patricia O’Kane, *Assistant Director*
Mr John Sheldon, *QA & Training Manager*

Ms Karen Bailey, *Acting Chief Executive, BSO (Point 57.20)*
Mr Mark Bradley, *Interim Director of CCP, BSO (Point 57.20)*

Ms Eilis McDaniel, *Director of Family & Children’s Policy, DoH (Point 58.20)*
Ms Elaine Lawson, *Head of Looked After Children & Adoption Policy Unit, DoH (Point 58.20)*

Minute Taker: Mrs Ann Andrew, *Administration Manager*

START TIME: 9.30am

Meeting by teleconference

56.20 INTRODUCTION

56.20.1 Mrs Loughran indicated that representatives from Business Services Organisation (BSO) and the Department of Health (DoH) will be joining the meeting.

57.20 MEETING WITH BSO

57.20.1 Mrs Loughran welcomed Ms Karen Bailey (Interim Chief Executive) and Mr Mark Bradley (Interim Director Customer Care & Performance) to the meeting. Both joined on invitation by the Board to discuss the working relationship with NIGALA and the key challenges for BSO services and how they have been impacted by Covid-19.

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- 57.20.2 Ms Bailey provided an update on the various changes in BSO senior personnel over the past few months.
- 57.20.3 Ms Bailey indicated that in the first wave of Covid-19 business continuity plans were implemented. The regional ITS services stood down a number of programmes in order to support remote working. The HR Department was very involved in support work for the PHA, the Board, etc. PaLS were also busy in procuring the necessary goods for clients. Ms Bailey noted that whilst most other services kept business as usual there were a number of services stood down at the request of HSC Trusts.
- 57.20.3 Ms Bailey noted that due to the recent surge of Covid a number of services are being affected again. Ms Bailey indicated that BSO have prepared a summary of their plans for dealing with services in the second wave and confirmed she would be happy to share this with the Board.
- 57.20.4 Mr Bradley indicated the current review of SLAs will be an opportunity to put in place a meaningful SLA with shared responsibilities and shared accountability. Mr Brown confirmed NIGALA pay approximately £150k per annum for a range of varied services. He agreed that the SLA needs to be meaningful for all involved in discussions and that the SLA should only include what can be delivered.
- 57.20.6 Ms Bailey provided an update on plans going forward. She indicated that BSO will be dealing with the closure of the HSC Board and will be working through that project of managing staff transfers. Ms Bailey noted that in the next few years BSO will also be taking on additional services. They are also dealing with the Review of Health & Social Care Services, similar to NIGALA.
- 57.20.9 Mr Smyth and Mr Reynolds both agreed of the need for a closer working relationship with better communication. They acknowledged the points are all well-made and noted their appreciation of the summary provided.
- 57.20.10 Ms Callaghan referred to the delay in services and the impact on children. She queried if there was a reflective message, any commonality over performance information real-time that might be of use? Could BSO and NIGALA perhaps work in tandem to identify lessons learned? Ms Bailey indicated she would raise this with Mr Alphy Maginness, Directorate of Legal Services.
- 57.20. Mrs Loughran thanked Ms Bailey and Mr Bradley for their very important and useful update promoting the kind of good communication that the NIGALA Board regards as essential. Ms Bailey indicated BSO would be open to attending meetings at regular
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intervals and acknowledged the need for keeping communication open and meeting shared challenges.

58.20 MEETING WITH DOH SPONSOR BRANCH

58.20.1 Mrs Loughran welcomed Ms Eilis McDaniel (*Director of Family & Children's Policy*) and Ms Elaine Lawson (*Head of Looked After Children & Adoption Policy Unit*) from DoH Sponsor Branch to the meeting. Ms McDaniel provided an update on a number of areas:-

58.20.2 **Review of ALBs Update:** Ms McDaniel indicated that the Executive had agreed to commence the Review of ALBs in June of this year; this review is partially about rationalisation and about achieving greater efficiency and effectiveness. The review is in two stages with the first stage being a fact finding exercise. The second stage is an assessment against detailed criteria. On completion of this, DoF will report, making recommendations for consideration and decision by the Executive.

Ms McDaniel noted that the DoH has completed the information template as requested by DoF (as part of stage 1). She indicated that in her opinion NIGALA has a 'technical role' and therefore the role could not be undertaken by civil servants. She confirmed that there has been a pause to a range of Sponsorship and Governance Activities and therefore a timeline for this has not been set.

Ms McDaniel confirmed that La'Verne Montgomery has circulated the completed template for review by ALBs; Mr Reynolds confirmed that he is currently undertaking a factual accuracy check on the template provided and is updating the information held.

58.20.3 **Partnership Agreement:** Ms McDaniel confirmed that the *Partnership Agreement*, will replace the *Management Statement/Financial Memorandum*. She confirmed there is a pause to a range of Sponsorship and Governance Activities and therefore a timeline for completion of this has not been agreed. She indicated the Partnership Agreement should add a lot to the relationships currently in place and indicated she already considers NIGALA and DoH to have a good working partnership.

58.20.4 **Business Plan Priorities for 2020-21:** Ms McDaniel indicated there are 4 key areas of activity that are currently being prioritised by DoH under business continuity arrangements (i) Finance, (ii) Brexit, (iii) Covid-19 and (iv) Strategic work which emanates from Ministerial commitments and contractual obligations. Ms McDaniel confirmed that DoH intends to progress the Adoption & Children Bill which is expected to be introduced into the Assembly during this mandate. She updated the

Board on a number of other areas of work including the Establishment of a Regional Care and Justice Centre confirming the consultation period is now open and all views are welcomed.

Ms McDaniel referred to the NIGALA Business Plan 2021-22 and indicated that a roll-over of the current plan was expected, but it should include plans to address the impact of Covid. She indicated that it is expected that finances to support the operation of the plan will be at the same level as the 2020-21 budget; although at this stage the expectation is that no 'savings' will be applied.

58.20.5 **Children at Risk in the context of Covid-19; Challenges/Response:** Ms McDaniel indicated the challenges of the first and second waves have differed. The surge plan has been closely aligned to staff absences and this has become a bigger challenge in the second wave; with some Trusts already at a critical point. DoH issued guidance to services in the first wave and this has been updated as the situation has developed.

Ms McDaniel referred to the increasing referrals and updated the Board on the rising numbers, following from a decrease in referrals at the start of the pandemic. She indicated a Vulnerable Children & Young People action plan has been developed in conjunction with Departments of Education, Justice and Communities and a consultation on this is currently running until 13th November 2020. Emergency Regulations which were made at the outset for a period of six months will be extended in light of the continued pandemic.

58.20.6 **Rebuilding HSC Services & Creating a Culture of 'Collective Leadership':** Ms McDaniel noted that a Management Board, chaired by Richard Pengelly has been established.

In respect of Children's Services the plan was to have services operating as normal at the end of September but with the second wave unfortunately those plans cannot be realised and rather than rebuilding the HSC Trusts are re-activating surge plans.

Ms McDaniel indicated she was familiar with the challenges in Courts and the delays encountered. She noted they are currently operating at around 35% capacity, using virtual means where possible but it is estimated that this takes approximately 50% longer than usual. She noted the NICTS is looking at other venues. Ms McDaniel suggested that, although not happening at the moment, Trusts may be asked to identify cases at resolution/decision-making stage and have these cases addressed as a matter of urgency.

58.20.7 Ms McDaniel referred to NIGALA's budget and acknowledged the Agency had a small surplus but will have a more accurate forecast on their position in December.

58.20.8 Mrs Loughran thanked Ms McDaniel for her comprehensive update. Board Members were given the opportunity ask questions.

- *Mr Wilson referred to the Review of ALBs and sought further clarity on NIGALA's classification as a specialised service and if the Review would be continuing at this point?* Ms McDaniel reiterated the importance of the template being completed to a high standard thus offering a strong case for NIGALA and the technical work it undertakes. Ms McDaniel noted she is confident in terms of the comprehensiveness of stage 1 of the review. She indicated that at the moment a number of areas of work with DoH are being paused and they may not have the capability to undertake work as directed by DoF (following stage 2) at this time. Ms Lawson suggested there may be a delay post stage 2 in the finalising of conclusions and discussing these with the Minister and Executive.
- *Mr Wilson referred to the Rebuilding of Children's Services and queried how NIGALA might feed into that Workstream?* There was discussion about NIGALA's input from a regional overview perspective and Ms McDaniel indicated that it may be helpful if NIGALA were more formally involved on the Management Board. She indicated she would raise this with the Department to see if there is any scope for this to happen. She reinforced the critical need for the NIGALA business plan to reflect the challenges ahead and acknowledged the obvious build-up of cases which must be managed in some way; further discussions with the Department may be necessary.
- Ms Callaghan noted her concerns at the growth in the number of Looked After Children and the implications this would have for NIGALA around the case management process and the role of the Guardian. She indicated that Board Members recently engaged with Guardians who are concerned about risk around not being able to meet with the child; However they continue as confidently as possible, to provide an overview to the Court. She acknowledged that whilst there are many benefits to virtual engagement (through Zoom etc) there are also downsides. Ms Callaghan stressed there is a big impact in the huge volume of work at this difficult time when NIGALA does not have the resources/number of Guardians available to pick cases up quickly.

Ms Callaghan indicated it would be of benefit if HSC Trusts could identify cases at resolution stage and help to quantify where the critical pressure points are. She noted the challenges ahead in respect of budget and rising caseload.

- Mr Smyth noted that collaboration and sharing is essential going forward and Mr Reynolds highlighted there is likely to be a catch up period due to the effects of Covid moving well into 2021. He indicated he would try to speak with HSC Trusts and consider how we can be more formally involved in conversations. Ms Lawson referred to meetings that the HSC Board holds with HoS of residential care, specialist services, RQIA and VOYPIC; she indicated she would liaise with Ms Judith Brunt about NIGALA joining these meetings.
- Ms McDaniel referred to the Rebuilding Workstreams and indicated she would be happy to share that information.

58.20.9 Mrs Loughran thanked Ms McDaniel and Ms Lawson for attending the meeting and noted her gratitude for the Board having the opportunity to engage.

59.20 DECLARATION OF INTERESTS

59.20.1 Mrs Loughran provided an opportunity for the Board members to identify any conflict of interest in respect of today's agenda. None were noted.

60.20 MINUTES OF LAST MEETING: 3rd SEPTEMBER 2020

60.20.1 The minute from the last meeting of the NIGALA Board on 3rd September 2020 was approved as an accurate record, proposed by Ms Callaghan.

61.20 MATTERS ARISING

61.20.1 Mrs Loughran referred to the Action List from the last meeting and the Board noted the progress/outcome on each. There were no outstanding actions for discussion.

62.20 CHAIR & NON-EXECUTIVE'S BRIEFING

62.20.1 Mrs Loughran referred to the two excellent presentations from the BSO and DoH this morning and suggested it would be helpful to have them both come along more frequently to engage with the Board.

62.20.2 Mr Smyth was in agreement and acknowledged the importance of both. He noted he would like to see HSC Trusts also come to the Board meeting and reinforced the need for engagement. Ms Callaghan noted that the Children Services Improvement

Board (CSIB) is represented collectively and this regional representation would be welcome and provide an overview of challenges ahead. Mr Reynolds and Mr Brown to arrange for representation at the next meeting of the Board (December 2020).

ACTION: Mr Reynolds and Mr Brown to arrange for HSC Trust representation at the next meeting of the Board (December 2020).

63.20 CHIEF EXECUTIVE'S BRIEFING

- 63.20.1 Mrs Loughran referred to the *CEO Briefing Paper* providing an update on NIGALA activity since the last meeting of the Board.
- 63.20.2 Mr Reynolds spoke to same and noted the increasing numbers of children entering the care system; he indicated that 'domestic violence' is one of the most predominant factors behind child protection referrals.
- 63.20.3 Mr Reynolds referred to some of the key messages from the NICON Conference ie transitional change, collaborative working, building relationships, etc and highlighted how this reflects a lot of our thinking at the Board Development Day. Mr Wilson noted that he had attended the HSC Quality Improvement Session at the NICON conference and indicated he didn't appreciate its importance until his attendance at the Social Care Governance Committee meeting; he noted there are Regional Awards for 'quality improvement' and suggested NIGALA might consider putting something forward.
- 63.20.4 Mr Smyth emphasised the need for NIGALA to focus on 'influence', consider where we can influence and how; he noted the importance of collective leadership and collaboration. He indicated he would liaise with Mr Reynolds after the meeting.
- 63.20.5 Mrs Loughran thanks Mr Reynolds for a very interesting paper.

64.20 FINANCE AND PERFORMANCE REPORT

- 64.20.1 Mrs Loughran referred to the *Finance and Performance Report* and Mr Brown took the Board through the areas of performance, workflow management, finance and environmental scan.

Financial Performance

- 64.20.2 Mr Brown referred to the income and expenditure position at month 5 and indicated this was based on his assumptions that the Agency would be 'up and running' again from October 2020; he predicted a deficit of £106k at year end. A change in spending activity for next 3 months will be at a level not normally expected at this point in the year. Mr Brown has now projected a year end deficit of £39k as some money will be saved from a number of areas eg car parking, travel expenses and delays in recruitment.
- 64.20.3 Mr Brown noted a business case for £16k has already been submitted for expenses around Covid-19, eg PPE. Mrs Loughran sought clarity on the expected end of year financial position: Mr Brown confirmed the Agency will potentially have a small surplus if business activities stay as they are now, if these change and staff are back to travel and work as previous then the Agency will have a deficit. He emphasised any savings this year will not be recurrent and will be attributable to the impact of Covid in year.
- 64.20.4 Mr Wilson queried around increasing the capacity of Self-Employed Guardians but Ms O'Kane confirmed this is not feasible. Mr Wilson requested another column be added to the budget allocation/expenditure table detailing the 'overspend'.

ACTION: Additional column to be added to the budget allocation/expenditure table detailing the 'overspend'.

- 64.20.5 Mr Smyth queried when is the critical time for making a business case for next year's expenditure? Mr Brown confirmed that Business Plans are expected to be submitted in January 2021. Mr Smyth emphasised it is critical that NIGALA submits a compelling business case for additional monies. . Mr Brown noted that to stay in the position that additional finance is needed for 2021-22.
- 64.20.6 Mrs Loughran suggested that Mr Brown and Mr Reynolds start to prepare a draft and work on the substance of the business case reflecting on the nature of the work and consider how this is reflected in the figures. This is to be discussed further at the December meeting of the Board.

ACTION: Business Case for 2021-22 to be discussed further at the December meeting of the Board.

Workflow / Allocation

- 64.20.7 Ms O’Kane referred to her paper *Allocation Report* providing an overview of allocation and the impact of Covid-19, increased duration of established proceedings alongside a recent increase in the volume of new appointment requests and staff capacity being compromised by the pressure of absorbing Guardian case transfers.
- 64.20.8 Ms O’Kane gave a detailed context around a number of the existing workload pressures. She highlighted cases with duration of over 400 days (account for 37% of NIGALA caseload) and balancing recent requests for new appointments (impact of Covid-19) alongside case transfers (reduced staff capacity).
- 64.20.9 Ms O’Kane noted the internal challenges for NIGALA with three full time Guardians retired. There are also limitations within the self-employed capacity. She confirmed that two new Guardians have been appointed alongside two Self Employed Guardians but they have a protected caseload in their probationary period. Another Guardian is due to start in November.
- 64.20.10 Ms O’Kane noted that managing allocation is challenging and is rotational on a monthly basis between the two Assistant Directors and Quality Assurance & Training Manager. She highlighted a number of Actions to manage the waiting list. Going forward the allocation managers are going to meet weekly to review the waiting list of cases awaiting allocation.
- 64.20.11 Ms O’Kane indicated there will be more frequent briefings with stakeholders and this will hopefully alleviate the pressure on the allocation manager to respond to requests from Judges and Solicitors to prioritise identified cases for allocation.
- 64.20.12 Ms O’Kane provided an overview of proposed engagements with key stakeholders to inform and influence change. At HSC Trust level the Assistant Directors have formalised liaison links at Principal Practitioner level and details of 400+ day cases have been shared. Trusts are encouraged only to submit cases where cases have all appropriate work undertaken and cases are good to go once they come into court.
- 64.20.13 Engagement with DLS Solicitors who represent the five HSC Trusts will be undertaken and discussion will include the managing and updating of cases currently held by them ensuring all updated reports and statements have been received prior to issuing an application in court. She noted that the limited court capacity is currently complicating cases that might usually be relatively straight forward.

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- 64.20.14 Mrs Loughran noted this was an excellent paper highlighting the challenges about what can and cannot be influenced and welcomed the initiatives to engage with the HSC Trusts.
- 64.20.15 Mrs Loughran raised her concern about the number of cases awaiting allocation and indicated she would like to see how long cases have been awaiting allocation/reasons. She acknowledged the difficulty in balancing the surge of new cases against transfers and capacity.
- 64.20.16 Mr Smyth queried if the Judiciary appoints a Guardian because of the statutory duty, despite capacity. Mr Reynolds highlighted if the Agency has a 'Waiting List' it will be in breach of the Children Order. There was discussion about what the Agency can/cannot control and what others dictate.
- 64.20.17 Ms Callaghan noted the Agency has a lot of information which we are not making best use of eg real time performance data, making decision on eg readiness for court, total cases allocated/not allocated/waiting transfer, etc. She noted she feels that as a Board we do not have a complete grasp on all this information. She highlighted the need to reflect this on the Risk Register. Ms Fallon noted that the Allocation Managers are looking at the issues and get information from Guardians, TIP Forms and a number of Workstreams going on internally.
- 64.20.18 Mr Smyth acknowledged that the senior team are doing their best and noted the good work being undertaken. He highlighted that as a Board we need to support our workforce and understand the challenges eg statutory, workforce, monetary, skills, etc.
- 64.20.19 The Board requested another paper about the allocation of cases with greater detail looking at how many came in, how many allocated, assessments, why not allocated, etc. Mrs Loughran proposed a paper by Wednesday 17th November 2020. She noted the narrative of the paper is very important and indicated that an emergency meeting of the Board might be called to review same. Ms Callaghan suggested this paper and information will feed into our Business Plan discussions and agreed it requires some dedicated time.
- 64.20.20 Mrs Loughran noted her gratitude for the contents of the paper. She noted it is a worrying position and may warrant an emergency meeting of the Board.

ACTION: Paper on Allocation to be prepared by the Allocation Managers with greater detail around the process, cases currently awaiting allocation and workload

position. Paper to be available by Wednesday 17th November 2020 and an Emergency Meeting of the Board called to discuss as necessary.

65.20 BUSINESS PLAN 2020-21 – MID YEAR UPDATE

65.20.1 Mrs Loughran referred to the *NIGALA Business Plan 2020-21 – Mid-Year Update* and Mr Brown spoke to same highlighting this is a 6-monthly update of the objectives agreed in the Business Plan with the DoH. He highlighted that allocation is causing a number of concerns. Mr Wilson requested the Business Plan Objectives be RAG rated going forward.

66.20 NIGALA SOLICITOR PANEL

66.20.1 Mrs Loughran referred to the *NIGALA Solicitor Panel Reconstitution* paper prepared by Ms O’Kane and providing the context for the establishment and operation of the NIGALA Solicitor Panel (2015-2020). The revised timeline and process for the reconstitution exercise is identified in line with Covid-19.

66.20.2 Ms O’Kane spoke to same and confirmed that there are 92 solicitors to move forward to new Solicitor Panel. She confirmed she is actively engaged with the Law Society about the reconstitution of the Panel; Roadshows are planned along with a piece in The Writ about the panel. Ms O’Kane confirmed an additional 38 solicitors are required to bring the Panel membership up to its original number.

66.20.3 Ms O’Kane indicated the dataset from Law Society is available detailing those who are eligible to join and they will be targeted specifically. She confirmed those already on the Panel will be allowed to amend their preferences for work area. Ms O’Kane confirmed that Breige Savage and Una Doherty will be taking forward the work and are engaging actively with the Law Society.

66.20.4 Ms O’Kane noted that the application form is being reviewed and the criteria will be clearly detailed. She indicated that Andrew Kirkpatrick of the Law Society is providing assistance in this regard.

66.20.5 Mrs Loughran and Mrs McGaughey noted they would like to review the robustness of the process and also see the questions on the application form. The need to be assured of the processes in place and the ability to stand over any scrutiny is a requirement. Ms O’Kane agreed to share same.

ACTION: Ms O’Kane to share application form and questions with Mrs Loughran and Mrs McGaughey.

67.20 FRAUD

- 67.20.1 Mrs Loughran referred to the *Fraud Policy* and Mr Brown confirmed this is reviewed on an annual basis. The Agency has a Fraud Policy and a Fraud Response Plan in place.
- 67.20.2 Mrs Loughran acknowledged the important role of the Board in reviewing this on an annual basis. The Board noted same.

68.20 MID YEAR ASSURANCE STATEMENT

- 68.20.1 Mrs Loughran referred to the *NIGALA Mid-Year Assurance Statement* providing assurance to the DoH. Mr Brown spoke to same indicating the statement provides assurance from Mr Reynolds as Accounting Officer; he indicated normally it would be submitted to the DoH but they have confirmed they do not require it at this point in time.
- 68.20.2 Mr Brown referred to the *BSO Mid-Year Assurance Statement* from the Head of Internal Audit. Mr Smyth confirmed it was a clean report. Mr Wilson emphasised the importance of Board Members being aware of the assurances given.
- 68.20.3 The Board noted they were content with same.

69.20 DEPARTMENTAL CORRESPONDENCE

- 69.20.1 Mrs Loughran referred to correspondence from La’Verne Montgomery, DoH in respect of *Covid-19 – Further Pause to Sponsorship and Governance Activities*. The Board noted same.

70.20 ANY OTHER BUSINESS

- 70.20.1 **Risk Workshop:** Mr Smyth referred to the planned *Board Risk Workshop* on Tuesday 24th November 2020, 10am-12noon and indicated that would be an opportunity for members to share their thoughts on integrated governance and risk. He noted that

Audit looks back retrospectively whilst Governance looks forward. He suggested that the final section of the workshop reflects on the Business Plan.

Ms Callaghan referred to a possible surplus and suggested that consideration be given to how this might be spent. She noted if it cannot be allocated to the work of Guardians then perhaps it could support the work of the Youth Forum. Any further suggestions should be passed to Mr Brown.

70.20.2 Mrs Loughran thanked the executive team for all their hard work in planning for today's meeting.

71.20 CONFIDENTIAL ITEMS

71.20.1 Confidential Session updated on a number of areas.

END TIME: 12.45pm

Chair of the Board

A C T I O N L I S T

Ref	Action	By Whom	Progress Noted for Meeting
62.20 CHAIR/CHIEF EXECUTIVE'S BRIEFING	Mr Reynolds and Mr Brown to arrange for HSC Trust representation at the next meeting of the Board (December 2020).	Mr Reynolds & Mr Brown	
64.20 FINANCE & PERFORMANCE REPORT	Additional column to be added to the budget allocation/expenditure table detailing the 'overspend'.	Mr Brown	
	Business Case for 2021-22 to be discussed further at the December meeting of the Board.	Mr Brown	
64.20 WORKFLOW / ALLOCATION REPORT	Paper on Allocation to be prepared by the Allocation Managers with greater detail around the process, cases currently awaiting allocation and workload position. Paper to be available by Wednesday 17th November 2020 and an Emergency Meeting of the Board called to discuss as necessary.	Mrs Fallon & Ms O'Kane & Mr Sheldon	
66.20 NIGALA SOLICITOR PANEL	Ms O'Kane to share application form and questions with Mrs Loughran and Mrs McGaughey.	Ms O'Kane	