



NORTHERN IRELAND  
Legal Services  
Commission

**Annual Report and Financial Statements  
5 month period ended 31 March 2004**

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Presented to Parliament pursuant to the Access to Justice (Northern Ireland)  
Order 2003, schedule I para 15(3)

## NORTHERN IRELAND LEGAL SERVICES COMMISSION

Annual Report and Financial Statements  
For the 5 month period ended 31 March 2004

ordered by the House of Commons to be printed 15 December 2008

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## **Our Mission and Aim**

**The Commission will promote fair and equal access to justice in Northern Ireland in its provision of publicly-funded legal services.**

**Our aim is to provide high quality, customer focussed services that target those in greatest need and demonstrate value for money.**

## **ANNUAL REPORT**

### **INTRODUCTION**

The Northern Ireland Legal Services Commission (the Commission) is a body corporate as set out in paragraph 1 of schedule 1 to the Access to Justice (Northern Ireland) Order 2003 (the AJO 2003).

#### **Statement of Accounts**

The accounts of the Commission for the period 1 November 2003 to 31 March 2004 have been prepared in a form directed by the Lord Chancellor, with the consent of HM Treasury, in accordance with schedule 1, paragraph 17 of the AJO 2003.

The Commission is required to keep separate financial statements for the Legal Aid Fund (the grant) and for the income and expenditure of the Commission (the grant in aid). The financial statements have been prepared on the accruals basis of accounting.

#### **Statutory Background**

The legal aid system in Northern Ireland was introduced following a recommendation of the Steele Committee in 1960. The major findings of that Committee were that legal aid and advice should no longer be regarded as a matter of charity, that solicitors and counsel should be properly remunerated and that grant in aid and finance should be the responsibility of the state. The Legal Aid and Advice Act (Northern Ireland) 1965 gave the Law Society of Northern Ireland statutory responsibility for civil legal aid and legal advice.

The Commission was created on 1 November 2003 through the commencement of certain articles in the AJO 2003. It has assumed all responsibility for the provision of Legal Aid in Northern Ireland from the Legal Aid Department of the Law Society of Northern Ireland. During 2003/04, the Commission continued to provide services under the Legal Aid Advice and Assistance (Northern Ireland) Order 1981.

The staff and business of the former Legal Aid Department of the Northern Ireland Law Society transferred under TUPE to the Commission on 1 November 2003. The Northern Ireland Court Service also established transitional arrangements which saw the Legal Aid Committee, acting as the appellate body for decision to refuse civil legal aid, and the Fees Assessment Committee, as the appellate body for decisions on the assessment of fees paid for work done, continue to make these decisions under the delegated authority of the Commission. During 2003/04, the Commission recognised the need for a programme of research in order to develop an evidence base that would enable it to take forward the reform objectives that had been set by the Lord Chancellor, however the Commission did not have any capacity to take forward any of the reform objectives. The establishment of the Commission on 1 November 2003 also saw the winding up of the Legal Aid Advisory Committee, which was the independent body which provided advice to the Lord Chancellor on issues relating to the policy and administration of legal aid in Northern Ireland.

Legal Aid aims to provide legal services for those of small or moderate means who could not otherwise afford to litigate, provided that they can show sufficient cause for being party to proceedings, and it is not reasonable to expect them to proceed unrepresented. It also includes a system of legal advice and assistance which enables people of small or moderate means to obtain legal advice from a solicitor free, or upon payment of a contribution.

### **The Northern Ireland Legal Services Commission**

The Commission is a non-departmental public body (NDPB) sponsored by the Northern Ireland Court Service (NICtS), which is a department of the Lord Chancellor. The NICtS funds the running costs of the Commission through a grant in aid and the expenditure of the Commission on criminal and civil legal aid through a grant.

The relationship between the Northern Ireland Court Service and the Northern Ireland Legal Services Commission is governed by a management statement and financial memorandum. During 2003/04, the Northern Ireland Court Service drafted the Management Statement and Financial Memorandum for agreement by the Commission.

The AJO 2003 provides the Commission with statutory authority to administer civil legal aid and advice. The Commission has delegated authority for decision making on appeals against refusal of civil legal aid and for decisions on certain financial matters, such as those connected with the assessment of claims, to panels of external legal practitioners. A further committee established under the Crown Court 1992 Rules, known as the Appropriate Authority and drawn from a panel appointed by the Lord Chancellor, deals with legal aid bills in criminal proceedings. The Commission processes all casework and administratively supports these committees.

### **Results for the Year**

The Commission is funded by grants provided by the Northern Ireland Court Service. For the 5 month period to 31 March 2004, the Commission received grant funding of £21,211k and grant in aid funding of £2,410k. The income and expenditure accounts for the grant and grant in aid are set out on pages 20 and 34 respectively and show a deficit of £5,625k and surplus of £66k. This is after notional charges are reversed.

The Commission faced considerable difficulties on assuming responsibility for the provision of publicly funded legal services in Northern Ireland. The Commission aims to develop better business processes and sound risk management arrangements, and is committed to continuous improvement in transaction processing. The issues that the Commission faced on its establishment included significant and historic backlogs in processing civil legal aid applications and assessing payments for criminal legal aid work, funding constraints, significant personnel and human resource issues and a range of corporate governance and change management matters, which needed attention to enable it to develop an organisation to deliver the reform of publicly funded legal services in line with Government objectives. There was also a total absence of relevant evidence-based research to underpin the development of reform proposals for legal aid in Northern Ireland. In addition, the relationship between the Commission and the providers of publicly funded legal services in Northern Ireland was extremely difficult.



During 2003/04, in light of reports from the Legal Aid Advisory Committee, the many representations to the Commission from members of the legal profession and the experience of staff in the transition to the Commission, the Board of the Commission recognised the frustration that members of the legal profession experienced from inefficient legal aid procedures. They recognised that the development of increased confidence among stakeholders to take forward the reform of criminal and civil legal aid would be a major challenge for the opening years of the Commission's work.

During 2003/04 the Commission did not have capacity to take forward reform.

### **Going Concern**

The Commission is operated on a going concern basis, in spite of significant net liabilities. These liabilities relate to obligations to pay legal costs against legal aid certificates in issue, and will be financed from resources voted by Parliament in the future.

### **Pensions**

The Commission contributes to the Northern Ireland Local Government Officers' Superannuation Scheme (NILGOSC), with a small number of staff remaining on a legacy NPI pension scheme. Full details of these schemes are disclosed in Note 7 to the financial statements on pages 43 to 45.

To comply with Financial Reporting Standard (FRS) 17, the Commission received its actuarial valuation of the liabilities of the Law Society of Northern Ireland Retirement Benefits Scheme (the NPI Scheme) as at 31 March 2004. An opening provision of £513k was created in the grant in aid accounts to recognise the deficit in the scheme as at 31 October 2003. The provision has been decreased by £33k (see note 15 on page 48). The scheme was established to provide pensions for staff of the Legal Aid Department but was closed to new entrants in 1998 when the majority of members transferred to NILGOSC. The current valuation of the NPI scheme is not adequate to fund fully the accrued rights of remaining members; the Commission has agreed in principle to wind up the fund.

### **Post Balance Sheet Events**

The Commission recognised a post balance sheet event relating to a payment made to NILGOSC in relation to the shortfall of the transfer value of the NPI fund (see Note 22 on page 51).

## **Research and Development**

In addition to the challenge to create a new organisation to improve the delivery of publicly funded legal services, the Commission has also been charged with reforming legal aid services in Northern Ireland. This is against a background of major changes already being implemented in these services in England and Wales and in Scotland. Given the absence of information particular to Northern Ireland, it is planned to put in place, urgently, a research programme to inform the future reform decisions of the Commission.

The Commission places great store on consulting with stakeholders, including the legal profession, whenever that is possible. Inevitably, there may be areas of disagreement, but the provision of justice through legal services to those most needing assistance remains of overriding importance.

## **Charitable Donations**

There were no charitable donations made during the year.

## **Fixed Assets**

The movement of fixed assets during the year is set out at Note 11 a & b on page 47. There were no significant changes during the year.

## **Commission Members**

In accordance with Article 4 of the AJO 2003, the Commission's members, appointed by the Lord Chancellor, comprises of a Chair and no fewer than six, but no more than ten, members appointed every three years.

The following members served on the Committee during the five month period to 31 March 2004:

Sir Kenneth Bloomfield KBE	
Chairman	(Appointed 28 July 2003, until 12 March 2004)
Mr Les Allamby	(Appointed 28 July 2003)
Mrs Maeve Bell OBE	(Appointed 28 July 2003)
Professor Sean Doran	(Appointed 28 July 2003, until 29 March 2004)
Ms Breidge Gadd CBE	(Appointed 28 July 2003)
Mrs Jennifer Greenfield	(Appointed 28 July 2003)
Dr Jeremy Harbison CB	(Appointed 28 July 2003)
Mr Francis Hewitt	(Appointed 28 July 2003)
Mr Miceal McCoy	(Appointed 28 July 2003)
Mr Peter Osborne	(Appointed 28 July 2003)
Mr Ronald Spence CB	(Appointed 28 July 2003)

The Northern Ireland Court Service appointed Mr Gerry Crossan as the founding Chief Executive of the Commission in October 2003 and he took up the position with the establishment of the Commission on 1 November 2003. During 2003/04 the Board of the Commission developed the organisational plans to enable recruitment and selection of a top management team during 2004/05 to support the Chief Executive.

The following changes to the membership of the Committee occurred from 1st April 2004 to 12th May 2008.

Mr Jim Daniell (Current Chairman)	(Appointed 12 November 2007)
Sir Anthony Holland (Former Chairman)	(Appointed 19 April 2004, until 31 July 2007)
Mr Brian Fee QC	(Appointed 1 January 2005, until 31 December 2007)
Mrs Maeve Bell OBE	(Until 31 July 2006)
Mrs Jennifer Greenfield	(Until 31 July 2006)
Mr Francis Hewitt	(Until 31 July 2006)
Mr Peter Osborne	(Until 31 July 2006)
Mr Joseph Donnelly	(Appointed 1 September 2006)
Ms Fiona Donnelly	(Appointed 1 September 2006)
Mr Wilson Matthews	(Appointed 1 September 2006)
Mrs Hilary McCartan	(Appointed 1 September 2006)

In addition, Mr Ronald Spence CB was Interim Chairman from 3 August 2007 to 11 November 2007.

### **Statement of Commission Members Responsibilities**

The responsibilities of the Board of the Commission and its members are set out in the document "Standards in Public Life", the HM Treasury document "NDPBs – A Guide for Government Departments" and other publications by HM Treasury. In order to meet these responsibilities during 2003/04, the Board of the Commission established a number of committees in addition to the Board. These committees were charged with overseeing the operational, development and administrative functions of the Commission and with supporting the Chief Executive in addressing the inherited issues and establishing a platform for the reform of legal aid in Northern Ireland.

Other responsibilities of the Commission members include:

- Ensuring that mechanisms are in place and properly operated so that high standards of corporate governance, including financial, operational and compliance controls and risk management can be observed.
- Establishing the overall strategic direction of the Commission within the policy and framework agreed with the Northern Ireland Court Service.

- Ensuring that the Commission operates within the limits of its statutory authority and any delegated authority agreed with the Northern Ireland Court Service and with any other conditions relating to the use of public funds.
- Ensuring that, in reaching decisions, the Commission has taken into account any guidance issued by the Northern Ireland Court Service or the Lord Chancellor's Department.

### **Remuneration Report**

Details of salaries and fees paid to senior staff and commissioners are disclosed in notes 4 to 6, on pages 41 to 42.

The officials employed by the Commission hold appointments which are open-ended until they reach the normal retiring age. Staff members are appraised annually against a set of competencies and individually targeted objectives. Bonuses, which form only a small percentage of total salaries, are the only form of remuneration subject to performance conditions. Neither the Chief Executive, nor any member of the Board, nor any staff members received any other payments or bonuses within this reporting period.

Board remuneration is determined by the Lord Chancellor.

### **Disabled Employees**

The Commission is fully committed to ensuring that there is equal opportunity of employment in its services, and that individuals are recruited, trained and promoted on the basis of their ability, aptitude for the work and the requirements of the job.

### **Employee Involvement**

The Commission formally communicates and negotiates with its staff on issues and changes to terms and conditions of employment through the Joint Consultative and Negotiating Committee. This committee is made up of management and members of the Northern Ireland Public Service Alliance which is the recognised union representing the interests of staff.

Senior management meet regularly to contribute to the corporate planning process and discuss any other aspects of business arising. These managers hold regular section and team meetings with their staff to communicate the Commission's plans, receive feedback, and give staff the opportunity to contribute to the planning process.

### **Prompt Payment**

With respect to grant in aid costs, the Commission aims to pay all properly authorised invoices in accordance with the terms of the relevant contracts or within 30 days. Reviews conducted to measure how promptly the Commission paid its bills found that 66% of bills were paid within 30 days of the invoice date.

The Late Payment of Commercial Debts (Interest) Act 1998 provides businesses with a statutory right to claim interest on the late payment of commercial debt. During the year, the Commission incurred no interest payments.

Payments of legal aid grant are exempt from the Better Payment Practice Code.

### **Receipts**

Applicants for funding by the Commission may be required to make a contribution towards their legal costs. Generally, these are paid in instalments. They are shown as contributions by assisted persons in the financial statements.

Under Article 12 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981, the Commission has a first charge on money or property recovered or preserved during civil proceedings for which a certificate has been issued, where the expenditure incurred on legal aid exceeds any contributions made and costs paid.

### **Commission Members Interest**

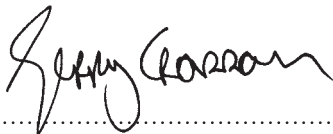
Details of company directorships and other significant interests held by Commission members are set out in the related party disclosures at note 17 on pages 29 to 30 to the grant financial statements. The Commission maintains a register of interests, access to which can be gained by contacting the Commission's Secretary.

### **Auditors**

The financial statements are audited by the Comptroller and Auditor General (C&AG) in accordance with the AJO 2003. He is head of the National Audit Office. He and his staff are wholly independent of the Commission and he reports his findings to Parliament.

The audit of the financial statements for 2003/04 resulted in an audit fee of £85,000. This fee is included in the grant in aid administration costs, as disclosed in note 8 to these accounts. The C&AG did not provide any non-audit services during the year.

For and on behalf of the Commission



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**CHIEF EXECUTIVE**

**Date: 15 May 2008**

**STATEMENT OF THE NORTHERN IRELAND LEGAL SERVICES COMMISSION  
AND CHIEF EXECUTIVE RESPONSIBILITIES**

The Northern Ireland Court Service is responsible to Parliament for the proper and efficient use of monies voted for the cost of the grant in aid funded operations and the grant for Legal Aid. They exercise these responsibilities through the Department's Principal Accounting Officer, who has designated me – as Chief Executive of the Commission – as the Commission's Accounting Officer.

As the Commission's Accounting Officer, I am answerable to Parliament for the Commission's expenditure. I have personal responsibility for the propriety and regularity of the public finances for which I am answerable; for the keeping of proper accounting records; for preparing financial statements for the grant in aid funded operations and the Legal Aid fund; for prudent and economical administration; for the avoidance of waste and extravagance; and for the efficient and effective use of all the resources in my charge. I have responsibility for good management of public money in relation to the fund and grant in aid expenditure, to ensure that the income and expenditure presented in the accounts have been applied to the purposes intended by Parliament and for ensuring that the Commission's officers fully understand the principles which they should apply to expenditure and the authorities which govern them.

I act in accordance with a range of certain general and specific responsibilities and with other instructions and guidance issued periodically by the Northern Ireland Court Service, HM Treasury and the Cabinet Office – in particular HM Treasury's NDPB Accounting Officer Memorandum (Annex 8.2 of Government Accounting).

I have the personal duty of signing the Commission's statement of accounts and the further duty of being a witness before the Committee of Public Accounts from time to time to deal with questions arising from the statement of accounts, or from reports made to Parliament by the Comptroller and Auditor General (C&AG) under the National Audit Act 1983.

Under Schedule I, Paragraph 17(1) of the Access to Justice (Northern Ireland) Order 2003, the Commission is responsible for keeping the books of account and for preparing each financial year a statement of accounts. The C&AG will audit the statement of accounts and the Commission will lay before Parliament a copy of the statement of accounts and the C&AG's report on them.

I am also responsible for ensuring that appropriate controls are in place to protect the integrity of the Commission's Internet site. This includes ensuring that there are reasonable controls to guard the accuracy and completeness of the annual report document (incorporating the audited 2003/04 accounts) that is available to the public on the Commission's website.

## **STATEMENT ON INTERNAL CONTROL**

### **Scope of Responsibility**

As Accounting Officer, I have responsibility for maintaining a sound system of internal control that supports the achievement of the Northern Ireland Legal Services Commission (the Commission) policies, aims and objectives, whilst safeguarding the public funds and Commission's assets for which I am personally responsible. This is in accordance with the responsibilities assigned to me in Government Accounting (which was replaced from October 2007 by Managing Public Money) and in particular, the Treasury documents 'The Responsibilities of an NDPB Accounting Officer'.

The Northern Ireland Legal Services Commission is an NDPB of the Northern Ireland Court Service (NICtS). The board of the Commission has a corporate responsibility for ensuring that the Commission fulfils the aims and objectives set by the Lord Chancellor and for promoting the efficient and effective use of resources by the organisation. I, as Accounting Officer, in agreement with the NICtS, establish the organisation's corporate and business plans in light of the Commission's wider strategic aims. I advise the board on the Commission's operating and financial performance and ensure that its governance responsibilities can be discharged in accordance with established criteria. The relationship between the Commission and the NICtS has been formalised in an agreed management statement and financial memorandum, and is informed by relevant Dear Accounting Officer letters.

### **The Purpose of the System of Internal Control**

The system of internal control is designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives. It can therefore only provide reasonable, and not absolute, assurance of effectiveness.

The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of Commission policies, aims and objectives, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically. The system of internal control in place during the 5 month period to 31 March 2004 has been further developed by the Commission in the subsequent accounting periods. It remains in place up to the date of approval of the annual report and accounts, and accords with Treasury's risk management guidance.

### **Capacity to Handle Risk**

As Accounting Officer, I have responsibility for ensuring that a robust risk management framework is in place to ensure that risks faced by the Commission are managed and that appropriate control systems are in place.

Since the Commission's inception on 1 November 2003, oversight of risk management has been the responsibility of the Audit Committee, which was established in November 2003. The Audit Committee comprises representatives from the Commission's board, with senior management, internal audit consultants and the external auditors in attendance as required.

## **The Risk and Control Framework**

A risk management policy for the Commission was issued in December 2003. During 2003/04 the Commission employed suitably qualified external consultants to undertake the internal audit function. During this time, the Commission's internal auditors identified systemic weaknesses relating to the adequacy and effectiveness of the Commission's financial and operational systems and highlighted the absence of a robust risk and control framework. This resulted in the Commission commencing work on the development of appropriate processes and policies for risk management, namely:

- ◆ The development of a corporate risk register to identify the risks threatening to impact upon the achievement of the Commission's objectives
- ◆ A risk control framework to support the main corporate risk register
- ◆ Statements of assurance from senior managers providing formal declarations on their respective business areas

Through the introduction of these initiatives, risks and associated controls can be identified, managed and reviewed by all managers within the Commission, with the more formal system reinforcing the importance of effective risk management at all levels. Later enhancements to the Commission's risk management strategy placed additional focus on risk at business management level and helped develop increased risk sharing with external stakeholders.

The Commission continues to contract out its internal audit service, operating to the Government Internal Audit Standards.

## **Review of Effectiveness**

As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review is informed by the work of the internal auditors and the executive managers within the Commission who have responsibility for the development and maintenance of the internal control framework, and by comments made by the external auditors in their management letter and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal audit control by the Board and the Audit Committee, and a plan to address weaknesses and ensure continuous improvement of the system is in place.

The Commission continues to contract out its internal audit service, to a provider which operates to Government Internal Audit Standards. It submits regular reports, including, annually, an independent opinion on the adequacy and effectiveness of the Commission's system of risk management, control and governance.

A three year audit needs assessment was devised by our internal audit service provider, to meet the Commission's internal audit needs over the period of the contract for internal audit services. The strategic internal audit plan seeks to identify high, medium and low risks in relation to the Commission's operational, financial and procedural systems. The systems perceived to be of a high risk were scheduled to be reviewed twice over the three year cycle, in accordance with the Government Internal Audit standards.



Specific action plans to address each area of weakness identified through this internal audit programme were drawn up and agreed, and progress against these was formally reviewed by senior management and reported to the Audit Committee and Board in the period subsequent to this reporting period.

In undertaking the review of effectiveness, the Commission has developed the following processes –

- ◆ An annual report from the chairman of the Audit Committee to the Board on its programme of activity for the year
- ◆ An annual check of internal effectiveness of the Audit Committee against the NAO Audit Committee Self Assessment Checklist (first undertaken in March 2005)
- ◆ Regular reviews by the internal auditors, to standards defined in the Government Audit Manual, including an Annual Assurance Statement that contains independent opinion on the adequacy of effectiveness of the Commission's systems together with recommendations for improvement
- ◆ Reports at each meeting of the Board from the Audit Committee Chairman concerning internal control issues
- ◆ Periodic stewardship statements to the Audit Committee relating to the risk control framework
- ◆ Development of Quality Management Systems with a view to seeking ISO 9001 accreditation

### **Significant Internal Control and Related Issues**

Through this framework, and other management mechanisms, a number of significant issues have been identified:

#### **1. Provisions**

The lack of adequate legal aid expenditure forecasting information presented the Commission with various control issues. This continues to cause concern; however, significant advances in capturing information for forecasting purposes have been introduced within the constraints of the relevant legislation.

The management of data for the calculation of the provisions balance within the grant financial statements presented problems. The basis and methodology of this calculation continues to be the subject of an ongoing review. System issues around this, and other data management and reporting concerns, are under continuous review and will be further considered as a formal IT strategy is developed.

#### **2. Counter Fraud**

As Accounting Officer, I recognise my responsibility to maintain systems to safeguard public funds and to counter fraud. Prior to the commencement of the Commission

work on this area was limited, although a Fraud Prevention Officer was appointed in June 2001. Since the Commission was created in November 2003, the counter fraud function has been gradually strengthened, although during this reporting period, this was still in its early stages.

Further, weaknesses still exist due to the predominantly reactive nature of investigative work, and the absence of more strategic policies. The awareness of the general staff about the implications of fraud, and of their responsibilities in relation to its detection were low, and this has since been addressed by a series of training workshops for all employees, and the inclusion of fraud awareness in staff induction.

The Fraud Prevention and Investigation Unit is working to improve and document processes and procedures to detect and prevent fraud, and to increase focus on proactive investigations to support those already resulting from specific suspicions raised either inside or outside the Commission. The Commission is also now developing relationships with other government bodies to communicate and share more information to help counter fraud.

### **3. Omagh Payments**

External Audit have observed that special payments made in connection with the civil action being taken by the families of those involved in the Omagh bombing are held to be irregular. When challenged by Judicial Review it was determined that the Lord Chancellor was not empowered to make the direction under the Access to Justice (NI) Order 2003 Article 12(8)(a).

With regard to this issue, the Commission acted at all times on the Lord Chancellor's direction in making these payments. However, I understand that, as the payments do not have legislative cover and there is no means by which they can be authorised retrospectively, the payments are irregular. This matter is disclosed separately in the Losses and Special Payments Note to the Legal Aid Fund financial statements.

### **4. Timeliness of Annual Reports and Accounts**

Delays encountered with addressing areas of weakness in internal control and related issues have contributed to the delay in publication of the annual report and financial statements. This has been of significant concern for the Commission, and measures have been put in place to address this. In particular, the number of appropriately qualified finance staff in the Commission has subsequently been increased substantially.

### **5. Policies and Procedures**

A number of policies and procedures, including supervisory checks, require formal documentation and/or review and update. Much has been done to address this in the intervening period, however, this remains under continuing review as several of these continue to be a cause for concern and are being actively prioritised and addressed by management.

The absence of a formal Human Resource strategy and lack of application of some management controls have given cause for concern. These have gradually been addressed in the intervening period and continue to be developed. In particular, a formal HR strategy has now been introduced.

These and other identified areas of weakness, their associated action plans and processes to review the effectiveness of the Commission, are being addressed under the Commission's Business Assurance Framework. The key components of this framework are as follows;

♦ *Quality*

The development of a complete management system compliant with the ISO9001-2000 quality standard

♦ *Risk management*

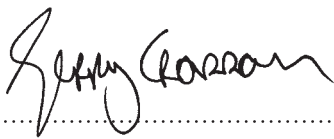
Further development of the structures and control systems in place to monitor and assess risks that may impact on the achievements of the aims and objectives of the Commission

♦ *Resource management*

Continual development of enhanced financial reporting and budgeting processes, and the development of business case justification procedures

♦ *Communication*

- ♦ Improving and more structured engagement with external stakeholders
- ♦ Consultation on policy changes
- ♦ Development of intranet facilities for staff
- ♦ Production of an organisational change management bulletin



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**CHIEF EXECUTIVE**

**Date: 15 May 2008**

**CERTIFICATE OF THE COMPTROLLER AND AUDITOR GENERAL TO THE  
HOUSES OF PARLIAMENT**

**Legal Aid Grant**

I certify that I have audited the financial statements of the Northern Ireland Legal Services Commission for the period ended 31 March 2004 under the Access to Justice (Northern Ireland) Order 2003. These financial statements have been prepared under the accounting policies set out on pages 23 to 24.

**Respective responsibilities of the Northern Ireland Legal Services Commission,  
the Chief Executive and Auditor**

As described on page 11, the Northern Ireland Legal Services Commission and Chief Executive are responsible for the preparation of the financial statements in accordance with the Access to Justice (Northern Ireland) Order 2003 and the direction made thereunder by the Lord Chancellor, with the approval of HM Treasury, and for ensuring the regularity of financial transactions. The Commission and Chief Executive are also responsible for the preparation of the other contents of the Annual Report. My responsibilities, as independent auditor, are established by statute and I have regard to the standards and guidance issued by the Auditing Practices Board and the ethical guidance applicable to the auditing profession.

I report my opinion as to whether the Legal Aid Grant financial statements give a true and fair view and are properly prepared in accordance with the Access to Justice (Northern Ireland) Order 2003 and directions made thereunder by the Lord Chancellor, with the approval of the HM Treasury, and whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. I also report if, in my opinion, the other contents of the Annual Report are not consistent with the financial statements, if the Commission has not kept proper accounting records, or if I have not received all the information and explanations I require for my audit.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. I consider the implications for my certificate if I become aware of any apparent misstatements or material inconsistencies with the financial statements.

I review whether the statement on pages 12 to 16 reflects the Commission's compliance with HM Treasury's guidance on the Statement on Internal Control. I report if it does not meet the requirements specified by HM Treasury, or if the statement is misleading or inconsistent with other information I am aware of from my audit of the financial statements. I am not required to consider, nor have I considered whether the Accounting Officer's Statement on Internal Control covers all risks and controls. I am also not required to form an opinion on the effectiveness of the Commission's corporate governance procedures or its risk and control procedures.

### **Basis of audit opinion**

I conducted my audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board except that the scope of my audit was limited as explained below. An audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Commission and Chief Executive in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Commission's circumstances, consistently applied and adequately disclosed.

I planned my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by error, or by fraud or other irregularity and that, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In forming my opinion I have also evaluated the overall adequacy of the presentation of information in the financial statements.

### **Adverse opinion arising from a disagreement with accounting treatment and a qualified opinion on regularity due to irregular expenditure and a limitation in scope**

Provisions have been made in the financial statements for the full cost of cases on which Legal Aid certificates have been issued before the period end. In my opinion, this is not consistent with Financial Reporting Standard 12, where provision should only be made for legal aid costs incurred up to the period end. I have been unable to quantify the effect of this treatment on the opening provisions (£134.5 million), closing provisions (£142.2 million) and associated Income and Expenditure Account charge (£27.3 million), because the Commission could not provide sufficient evidence to adequately determine Legal Aid costs due.

Costs for solicitors' charges, counsel fees and disbursements in the Income and Expenditure Account include costs of £307,000 incurred in 2003-04 for legal advice for a civil case, relating to the Omagh bombing which had been made under the authority of a Direction by the Lord Chancellor. A judicial review later concluded that the legislation under which the Direction had been made was unlawful. In my opinion this expenditure has not been applied for the purposes intended by Parliament as it is not in conformity with the authorities which govern it.

The evidence available to me was also limited because the Commission were unable to provide sufficient evidence that Legal Aid Grant expenditure was not fraudulently claimed and therefore because of this limitation I am not able to form an opinion whether the expenditure on Legal Aid was in accordance with the purposes intended by Parliament and that these financial transactions conformed to the authorities which governed them.

In view of the effect of the accounting treatment of provisions referred to above, in my opinion the financial statements do not give a true and fair view of the state of affairs of the Northern Ireland Legal Services Commission Legal Aid Grant at 31 March 2004 and of the deficit, recognised gains and losses and cash flows for the period then ended.

In all other respects in my opinion:

- the financial statements have been properly prepared in accordance with the Access to Justice (Northern Ireland) Order 2003 and directions made thereunder by the Lord Chancellor, with the approval of HM Treasury; and
- except for Legal Aid costs of £307,000 in respect of a case relating to the Omagh bombing which did not have an appropriate legal basis, and except for expenditure which may have arisen from fraudulent Legal Aid claims or fraudulent Legal Aid costs, in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

In respect alone of the limitations of my work relating to provisions and evidence to support the regular nature of Legal Aid claims and Legal Aid costs, I have not obtained all the information and explanations that I considered necessary for the purpose of my audit and I am therefore unable to determine whether proper records have been maintained for those items.

Details of these matters are set out in my Report on pages 54 to 59.

**T J Burr**

**Comptroller and Auditor General**

**27 October 2008**

**National Audit Office**

**151 Buckingham Palace Road**

**Victoria**

**London SW1W 9SS**

**INCOME AND EXPENDITURE ACCOUNT FOR THE GRANT FOR THE PERIOD  
 ENDED 31 MARCH 2004**

	Notes	5 months to 31 March 2004 £'000
<b>Income</b>		
Government grant income	2	21,211
Other operating income	3	295
		<u>21,506</u>
<b>Expenditure</b>		
Operating expenditure	4	27,267
Other expenditure	5	(136)
		<u>27,131</u>
<b>Deficit of income over expenditure</b>		<u>(5,625)</u>
Cost of capital credit	6	2,074
<b>Deficit for period</b>		<u>(3,551)</u>
Reversal of cost of capital credit		(2,074)
<b>Retained deficit for the period</b>		<u>(5,625)</u>

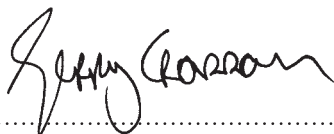
There are no gains and losses other than those recognised in the Income and Expenditure Account.

The notes on pages 23 to 31 form part of these accounts.

**BALANCE SHEET AT 31 MARCH 2004**

	Notes	<b>31 March 2004 £'000</b>
<b>Current assets</b>		
Debtors	7	722
Cash at bank and in hand	9	<u>9</u>
		731
<b>Creditors: amounts falling due within one year</b>	10	(3,456)
		<u>(2,725)</u>
<b>Net current liabilities</b>		
<b>Provisions for liabilities and charges</b>	11	(142,238)
		<u>(144,963)</u>
<b>Total assets less total liabilities</b>		<u>(144,963)</u>
<b>Financed by:</b>		
<b>Capital and reserves</b>		
General fund	12	<u>(144,963)</u>

The notes on pages 23 to 31 form part of these accounts.



.....  
**CHIEF EXECUTIVE**

**Date: 15 May 2008**



**CASHFLOW STATEMENT FOR THE PERIOD ENDED 31 MARCH 2004**

	Notes	<b>5 months to 31 March 2004 £'000</b>
<b>Net cash outflow from continuing operating activities</b>	13	(4)
<b>Decrease in cash during the period</b>		<u>(4)</u>

The notes on pages 23 to 31 form part of these accounts.

## **NOTES TO THE ACCOUNTS FOR THE PERIOD ENDED 31 MARCH 2004**

### **1. STATEMENT OF ACCOUNTING POLICIES**

The financial statements have been prepared in accordance with the 2003-04 NDPB guidance issued by HM Treasury. The accounting policies contained in the NDPB guidance follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector. Where the NDPB guidance permits a choice of accounting policy, the accounting policy which has been judged to be most appropriate to the particular circumstances of the Commission for the purpose of giving a true and fair view has been selected. The Commission's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

#### **a) Accounting Convention**

The financial statements of the Commission have been prepared under the historical cost convention modified to account for the revaluation of fixed assets at their value to the Commission by reference to their current costs.

#### **b) Grant Income**

Government grant income received for civil and criminal legal aid funding is accounted for as income in the year in which it is received. Grant income comprises grants drawn from the Northern Ireland Court Service.

#### **c) Other Income**

Other income comprises contributions receivable from funded clients. Income also includes amounts receivable from funded clients and others for costs, and where appropriate, damages awarded.

#### **d) Expenditure**

Expenditure comprises sums payable to legal aid service providers for services provided to funded clients, refunds of contributions to funded clients, costs awarded to other parties and other costs associated with the provision of legal advice and assistance. Sums payable include the estimated value of the work completed by legal aid service providers not yet billed.

#### **e) Notional Charge**

As required by HM Treasury, a charge is made to the income and expenditure account for the notional cost of capital. The notional capital charge, which reflects the cost of financing capital employed, is calculated at 3.5% of average net assets employed during the year. In accordance with HM Treasury guidance, the notional charge is reversed out of the income and expenditure account before determining the retained surplus or deficit for the year.

**f) Accounting for Value Added Tax**

The Commission is not registered for VAT. Irrecoverable VAT is charged to the relevant expenditure category or, if appropriate, capitalised with additions to fixed assets.

**g) Provisions**

The Commission recognises provisions for obligations, made to the legal profession, to settle the costs incurred by the legal profession in providing legal advice and assistance to assisted persons, that arise from the issue of certificates granting legal aid for specific cases. The provision is calculated at the best estimate of the expenditure required to settle the obligation on a case by case basis. Expenditure relating to the creation of provisions is charged to the income statement in the period in which the obligation arises.

**h) Provision for doubtful debts**

The Commission estimates the provision for doubtful debts and charges any debts written off against amounts previously provided. Movements in the provision are reflected in the income and expenditure account. The Commission utilises cash flow trends and the age of outstanding debts in assessing the appropriate level of the provision. Not all debts which are classed as doubtful at year end will result in a write off. The liability to the Commission of individual debtors may change as a result of a number of factors during the life of a legal aid certificate.

**i) Going concern**

The Northern Ireland Legal Services Commission is a statutory body established under the Access to Justice Order 2003. The Commission takes the view that the going concern concept applies to those accounts which present the operations of the grant and the grant in aid as long as the provisions of the AJO 2003 remain extant.

The future financing of the Commission's liabilities will be met by grants from the Northern Ireland Court Service as voted on by Parliament.

**j) Third party funds**

Awards for damages to funded clients may be required by the Legal Services Commission to offset any liability to the grant. The Commission places these funds on deposit until the liability, if any, is determined and any excess of damages is paid to the funded client. These funds are accounted for as funds held on behalf of third parties and therefore only appear in the notes of these accounts (see Grant Note 14).

**2. Government grant income**

	<b>5 months to</b> <b>31 March</b> <b>2004</b> £'000
NICtS Grant income	21,211
Grant credited to income and expenditure account	<u>21,211</u>

**3. Other operating income**

	<b>5 months to</b> <b>31 March</b> <b>2004</b> £'000
Contributions from assisted persons	126
Costs recovered	142
Damages retained	27
	<u>295</u>

**4. Operating expenditure**

	<b>5 months to</b> <b>31 March</b> <b>2004</b> £'000
Solicitors' charges, counsel fees and disbursements	27,267
	<u>27,267</u>

**5. Other expenditure**

	<b>5 months to</b> <b>31 March</b> <b>2004</b> £'000
Debt written off and movement in doubtful debt provision	(136)
	<u>(136)</u>

During the 5 month period to 31 March 2004 the reduction in provision for doubtful debt resulted in a credit to the income and expenditure account.

**6. Notional cost of capital**

The income and expenditure account bears a non-cash charge for interest relating to the use of capital by the Commission. The basis of the charge is 3.5% per annum, pro rata, of the average capital employed by the Commission during the 5 month period, defined as total assets less all liabilities. The notional charge is reversed out of the income and expenditure account before determining the retained surplus or deficit for the year. As the grant has net liabilities, a credit applies.

**7. Debtors: amounts falling due within one year**

	Notes	£'000	31 March 2004 £'000
Debtors			
Costs		1,342	
Contributions		489	1,831
Doubtful debt provision	8		(1,109)
			<u>722</u>

**8. Doubtful debt provision**

	31 March 2004 £'000
At 1 November 2003	(1,602)
Doubtful debts written off	357
Release to the income and expenditure account	136
At 31 March 2004	<u>(1,109)</u>

**9. Cash at bank and in hand**

	31 March 2004 £'000
Cash at bank	<u>9</u>
	<u>9</u>

**10. Creditors:** amounts falling due within one year

	<b>31 March 2004</b>
	£'000
Amounts due to solicitors, counsel and advice agencies	(3,456)
	<u>(3,456)</u>

**11. Provision for liabilities and charges**

	<b>31 March 2004</b>
	£'000
At 1 November 2003	(134,458)
Released in period	19,487
Created in period	(27,267)
At 31 March 2004	<u>(142,238)</u>

**12. Movement on general fund**

	<b>31 March 2004</b>
	£'000
At 1 November 2003	(139,338)
Deficit for period (excluding notional cost of capital)	(5,625)
At 31 March 2004	<u>(144,963)</u>

**13. Notes to the cash flow statement**

**(i) Reconciliation of operating deficit to net cash flow from continuing operating activities**

	<b>5 months to 31 March 2004</b>
	£'000
Result for period	(3,551)
Credit in respect of notional cost of capital	(2,074)
(Increase) in debtors	(169)
(Decrease) in creditors	(1,990)
Increase in provisions	7,780
<b>Net cash outflow from continuing operating activities</b>	<b>(4)</b>

**(ii) Reconciliation of net cash flow to movement in net funds**

Cash at bank and in hand 1 November 2003	13
Cash at bank and in hand 31 March 2004	9
<b>Net movement in funds</b>	<b>(4)</b>

**14. Third party funds**

Awards for damages to funded clients may be required by the Legal Services Commission to offset any liability to the grant for legal aid. The Commission places these funds on deposit until the liability to the grant, if any, is determined. Any remaining balance of the damages awarded is refunded once the liability to the grant has been settled. The amounts retained to cover any shortfall to the grant are recorded in income as 'Damages retained'. The movement on these third party funds for the 5 months ended 31 March 2004 was as follows:

	<b>5 months to 31 March 2004</b>
	£'000
Balance at 1 November 2003	208
Received for the period	490
	<u>698</u>
Less:	
Sums repaid to assisted persons	(412)
Damages retained	(27)
Balance at 31 March 2004	<u>259</u>

## **15. Summary of losses and special payments**

### **Losses**

There were 542 cases written off during the period totalling £357K (Note 8).

### **Omagh Payments**

Payments totalling £307K were made in connection with the Omagh Families Civil Action. The payments were made on the direction of the Lord Chancellor dated February 2004. However, the legal power of the Lord Chancellor was subsequently challenged by Judicial Review and it was determined that he was not empowered to make the direction (under Article 12, 8a of the Access to Justice (NI) Order 2003). The payments being extra statutory do not therefore have legislative cover. It was also determined that there was no means by which these payments could be authorised retrospectively. The payments therefore are irregular.

## **16. Post balance sheet events**

There were no post balance sheet events for the period ended 31 March 2004.

## **17. Related party transactions**

The Commission is a non-departmental public body sponsored by the Northern Ireland Court Service. The Northern Ireland Court Service is regarded as a related party with which the Commission has had various material transactions during the period.

Commission members are required to declare any personal, financial and business interests which may conflict with their duties to the Commission. Members may not participate in Commission discussions nor decisions on policy or financial matters where a conflict of interest arises.

During the period ended 31 March 2004 the Commission entered into a number of material transactions with some Commission members, other related parties or their close family members. These transactions are detailed following. External members of the Commission were required to declare any personal, financial and business interests which constituted material transactions with the Commission. Any immediate connections with the Legal Aid Fund and these members, or the organisations with which the members are associated, have been declared in the following paragraphs.

The figures disclosed following relate to transactions in respect of legal aid work and include payments on account, disbursements which may be payable to third parties, and fees payable to counsel. The amounts are stated inclusive of VAT, as this is a cost to the Commission. All transactions are for the period 1 November 2003 to 31 March 2004 unless otherwise stated. The transactions do not reflect annual earnings as they might include fees for work carried out in previous years but not billed until this financial year; they may also exclude fees for work carried out in 2003/04 but not yet billed.



Les Allamby is a director of the Law Centre (NI). His nephew, Ian Tannahill, is a barrister who receives payments in respect of legal aid casework.

The Law Centre (NI) provides specialist immigration and asylum advice and operates under grant funding. Funding originally obtained from the Home Office has been administered by the Commission since 1 April 2005.

Legal aid payments are also made to the Law Centre for work carried out on behalf of individuals qualifying for legal aid. The total amount of these payments during the 5 month period from 1 November 2003 to 31 March 2004 was £3,989.

Ian Tannahill received legal aid payments of £10,634.

Jennifer Greenfield is a consultant with Cleaver Fulton & Rankin solicitors. Her husband, Gordon Greenfield, is employed by McKinty & Wright Solicitors.

Cleaver Fulton & Rankin received legal aid payments of £12,530.

No payments in respect of legal aid casework were made to McKinty & Wright during the period.

Miceal McCoy is brother-in-law to Gerry Grainger BL, a barrister who carries out legal aid work. There were no payments to Mr Grainger during the period.

No other member of the senior management has undertaken any material transactions with the Commission during the period.

External committees which deal with refusal of legal aid and assessment of bills in civil proceedings, and legal aid bills in criminal proceedings, are comprised of external members of the legal profession. As committee members they are paid a standard attendance fee and as members of the legal profession they may receive payments in respect of legal aid casework.

## **18. Financial Instruments**

FRS 13 Derivatives and other financial instruments, requires disclosure of the role which financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. Because of the largely non-trading nature of the Commission's activities and the way in which the Commission is financed, the Commission is not exposed to the degree of financial risk faced by business entities. As permitted by FRS 13, the Commission has elected to exclude from disclosure all debtors and creditors which mature or become payable within 12 months from the balance sheet date.

### **Liquidity risk**

The Commission is financed by a grant received from the Northern Ireland Court Service. As such, it is not exposed to significant liquidity risks.

### Interest rate risk

The Commission is not exposed to significant interest rate risks.

### Interest rate profile

The following table shows the interest rate and currency profile of the Commission's financial assets:

	Total £'000	Floating- Rate Financial Assets £'000	Fixed Rate Financial Assets £'000	Non- Interest Bearing Financial Assets £'000	Weighted -Average Interest Rate %	Weighted -Average Period for which Rate is Fixed Years	Weighted -Average Period until Maturity Years
<b>Gross financial assets</b>							
Currency							
Sterling	9	-	-	9	-	-	Note a
<b>At 31 March 2004</b>	<b>9</b>	<b>-</b>	<b>-</b>	<b>9</b>	<b>-</b>	<b>-</b>	<b>-</b>

Note a - the Commission's non interest bearing financial assets comprise cash at bank and in hand. Cash at bank and in hand is available on demand.

### Foreign currency risk

Foreign currency would not usually form part of the Commission's assets or liabilities and as such the Commission is not exposed to any significant foreign currency risks.

### Fair values

Set out below is a comparison by category of book values and fair values of the Commission's financial assets at 31 March 2004.

	Book value £'000	Fair value £'000
<b>Primary financial instruments</b>		
<b>Financial assets:</b>		
Cash at bank	9	9

**CERTIFICATE AND REPORT OF THE COMPTROLLER AND AUDITOR GENERAL  
TO THE HOUSES OF PARLIAMENT**

**Grant in Aid**

I certify that I have audited the financial statements on pages 34 to 53 under the Access to Justice (Northern Ireland) Order 2003. These financial statements have been prepared under the historical cost convention as modified by the revaluation of certain fixed assets and the accounting policies set out on pages 38 to 40.

**Respective responsibilities of the Northern Ireland Legal Services Commission,  
the Chief Executive and Auditor**

As described on page 11, the Northern Ireland Legal Services Commission and Chief Executive are responsible for the preparation of the financial statements in accordance with the Access to Justice (Northern Ireland) Order 2003 and directions made thereunder by the Lord Chancellor, with the approval of HM Treasury, and for ensuring the regularity of financial transactions. The Commission and Chief Executive are also responsible for the preparation of the other contents of the Annual Report. My responsibilities, as independent auditor, are established by statute and I have regard to the standards and guidance issued by the Auditing Practices Board and the ethical guidance applicable to the auditing profession.

I report my opinion as to whether the Grant in Aid financial statements give a true and fair view and are properly prepared in accordance with the Access to Justice (Northern Ireland) Order 2003 and directions made thereunder by the Lord Chancellor, with the approval of HM Treasury, and whether in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. I also report if, in my opinion, the other contents of the Annual Report are not consistent with the financial statements, if the Commission has not kept proper accounting records, or if I have not received all the information and explanations I require for my audit.

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. I consider the implications for my certificate if I become aware of any apparent misstatements or material inconsistencies with the financial statements.

I review whether the statement on pages 12 to 16 reflects the Commission's compliance with HM Treasury's guidance on the Statement on Internal Control. I report if it does not meet the requirements specified by HM Treasury, or if the statement is misleading or inconsistent with other information I am aware of from my audit of the financial statements. I am not required to consider, nor have I considered whether the Accounting Officer's Statement on Internal Control covers all risks and controls. I am also not required to form an opinion on the effectiveness of the Commission's corporate governance procedures or its risk and control procedures.

### **Basis of audit opinion**

I conducted my audit in accordance with United Kingdom Auditing Standards issued by the Auditing Practices Board. An audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements. It also includes an assessment of the significant estimates and judgements made by the Commission and Chief Executive in the preparation of the financial statements, and of whether the accounting policies are appropriate to the Commission's circumstances, consistently applied and adequately disclosed.

I planned and performed my audit so as to obtain all the information and explanations which I considered necessary in order to provide me with sufficient evidence to give reasonable assurance that the financial statements are free from material misstatement, whether caused by error, or by fraud or other irregularity and that, in all material respects, the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them. In forming my opinion I have also evaluated the overall adequacy of the presentation of information in the financial statements.

### **Opinion**

In my opinion:

- the financial statements give a true and fair view of the state of affairs of the Northern Ireland Legal Services Commission Grant in Aid at 31 March 2004 and of the surplus, recognised gains and losses and cash flows for the period then ended and have been properly prepared in accordance with the Access to Justice (Northern Ireland) Order 2003 and directions made thereunder by the Lord Chancellor, with the approval of HM Treasury; and
- in all material respects the expenditure and income have been applied to the purposes intended by Parliament and the financial transactions conform to the authorities which govern them.

I have no observations to make on these financial statements.

**T J Burr**

**Comptroller and Auditor General**

**27 October 2008**

**National Audit Office**

**151 Buckingham Palace Road  
Victoria**

**London SW1W 9SS**

**INCOME AND EXPENDITURE ACCOUNT FOR GRANT IN AID FOR THE PERIOD  
ENDED 31 MARCH 2004**

		<b>5 months to 31 March 2004 £'000</b>
<b>Income</b>	Notes	
Grant in Aid	2	2,200
Release from capital grant reserve	16	279
<b>Total income</b>		<u>2,479</u>
<b>Expenditure</b>		
Staff costs	3	1,208
Other operating costs	8	1,021
Depreciation	11a & b	167
Notional charges	10	205
<b>Total expenditure</b>		<u>2,601</u>
<b>Deficit of income over expenditure</b>		<u>(122)</u>
Interest payable	15	(17)
Interest on capital (notional)	10	(20)
<b>Deficit for the period</b>		<u>(159)</u>
Reversal of notional charges	10	225
<b>Retained surplus for the period</b>	17	<u>66</u>

The notes on pages 38 to 53 form part of these accounts.

**STATEMENT OF RECOGNISED GAINS AND LOSSES FOR THE PERIOD ENDED 31 MARCH 2004**

		<b>5 months to 31 March 2004 £'000</b>
	Notes	
Unrealised deficit on revaluation of fixed assets	11b	(8)
Actuarial gain on pension scheme	15	1
<b>Recognised losses for the period</b>		<u><u>(7)</u></u>

The notes on pages 38 to 53 form part of these accounts.

**BALANCE SHEET AT 31 MARCH 2004**

	Notes	<b>31 March 2004 £'000</b>
<b>Fixed assets</b>		
Tangible assets	11b	1,540
Intangible assets	11a	367
		<u>1,907</u>
<b>Current assets</b>		
Debtors	12	169
Cash at bank and in hand	13	187
		<u>356</u>
<b>Creditors: amounts falling due within one year</b>	14	<u>(384)</u>
<b>Net current liabilities</b>		(28)
<b>Total assets less current liabilities</b>		<u>1,879</u>
<b>Provision for liabilities and charges</b>		
Pension provision	15	(480)
<b>Total assets less total liabilities</b>		<u>1,399</u>
<b>Capital and reserves</b>		
Capital grant reserve	16	1,907
General fund	17	(508)
<b>Total capital and reserves</b>		<u>1,399</u>



.....  
**Gerry Crossan**  
 Chief Executive

Date: 15 May 2008

The notes on pages 38 to 53 form part of these accounts.

**CASHFLOW STATEMENT FOR THE PERIOD ENDED 31 MARCH 2004**

	Notes	5 months to 31 March 2004 £'000
<b>Net cash inflow from continuing operating activities</b>	18	182
<b>Capital expenditure:</b>		
Payments to acquire tangible fixed assets	18	(3)
		179
<b>Financed by government grant</b>		8
<b>Increase in cash during the period</b>	18	187

The notes on pages 38 to 53 form part of these accounts



**NOTES TO THE ACCOUNTS FOR GRANT IN AID FOR THE PERIOD ENDED  
31 MARCH 2004**

**1. STATEMENT OF ACCOUNTING POLICIES**

The financial statements have been prepared in accordance with the 2003-04 NDPB guidance issued by HM Treasury. The accounting policies contained in the NDPB guidance follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector. Where the NDPB guidance permits a choice of accounting policy, the accounting policy which has been judged to be most appropriate to the particular circumstances of the Commission for the purpose of giving a true and fair view has been selected. The Commission's accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

**a) Accounting Convention**

The financial statements of the Commission have been prepared under the historical cost convention modified to account for the revaluation of fixed assets, where material, at the value to the Commission by reference to their current costs.

**b) Intangible and Tangible Fixed Assets**

The Commission assumed control as at 1 November 2003, through the Access to Justice (Northern Ireland) Order 2003, of all the assets that were previously controlled by the Legal Aid Department. This transfer of assets has been reflected in the accounts of the Commission through asset transfers at current value to the Commission on 1 November 2003.

Assets costing less than £1,000 per individual item are written off to the income and expenditure account in the period of acquisition. Computer systems (bespoke software), developed internally, have been capitalised at the full cost incurred. Where material, assets have been pooled so as to reflect more accurately asset holdings.

Assets are revalued at depreciated replacement cost using appropriate indices compiled by the Office for National Statistics.

Grant in aid received for specific capital expenditure on depreciable assets is credited to the capital grant reserve on the balance sheet. Surpluses and deficits arising on revaluation are also taken to the capital grant reserve. Permanent reductions in the value of fixed assets are charged to the income and expenditure account.

**c) Depreciation**

Tangible fixed assets are depreciated at rates calculated to write them down to estimated residual value on a straight line basis over their estimated useful lives. A further adjustment is made for any backlog depreciation arising from the requirement to value fixed assets by reference to current costs.

Estimated useful lives are in the following ranges:

Furniture and Fittings	10 Years
Office Equipment	5 Years
Computer Equipment	5 Years
Computer Software	3 Years

Additions to fixed assets will be depreciated from the month of acquisition. Disposals from fixed assets will not be depreciated in the month of disposal.

Assets transferred to the Commission on 1 November 2003 are depreciated after revising the useful life of each category of asset and reassessing the remaining useful life of each asset.

**d) Stocks**

Stocks of consumables held by the Commission are not considered material and are written off in the income and expenditure account as they are purchased.

**e) Income**

Grant in aid income comprises grants drawn from the Northern Ireland Court Service.

**f) Recognition of Income**

Grant in aid received for revenue expenditure is accounted for as income in the year in which it is received. Grant in aid received and applied for the acquisition of fixed assets is taken to the capital grant reserve. An amount equal to the annual depreciation charge and any permanent diminution in value on these assets is transferred from the deferred capital grant to the income and expenditure account.

**g) Notional Charge**

As required by HM Treasury, a charge is made to the income and expenditure account for the notional cost of capital. The notional capital charge, which reflects the cost of financing capital employed, is calculated at 3.5% of average net assets employed during the year.

Other notional charges included in operating expenditure reflect the cost of services provided by the Taxing Master and the Social Security Agency. In accordance with HM Treasury guidance, the notional charge is reversed out of the income and expenditure account before determining the retained surplus or deficit for the year.

**h) Pensions**

The Commission participates in the Northern Ireland Local Government Officers' Superannuation Committee Scheme (NILGOSC). NILGOSC is able to identify neither the associated assets and liabilities nor details of any surplus or deficits in the scheme which apply directly to the Commission. Accordingly, for the purposes of Financial Reporting Standard 17 (FRS 17) the scheme is treated as a defined contribution scheme.

Pension costs in respect of NILGOSC pension contributions are charged to the income and expenditure account as they fall due.

The Commission also sponsors the Law Society of Northern Ireland Retirement Benefits Scheme administered by NPI, (NPI Scheme). It is a defined benefit arrangement and a private funded scheme. The assets and liabilities of this scheme are held separately from those of the Commission. The scheme closed to new entrants in 1988 and the majority of active members transferred to NILGOSC. A small number of employees elected to remain in the NPI scheme at 31 March 2004. With retirements and resignations since then, the number of active members has reduced.

Pension costs associated with the NPI scheme are recognised in the accounts in accordance with the provisions of FRS 17. The charge to the income and expenditure account consists of the current service cost (included within staff costs) and interest costs (shown on the income and expenditure statement). Actuarial gains and losses have been taken to reserves and shown in the statement of recognised gains and losses.

Both schemes provide benefits based on pensionable salary. Payment by the Commission of the accrued superannuation liability charge (ASLC) will normally be sufficient to discharge liabilities. The cost of the ASLC is recognised in the accounts as a charge to the income and expenditure account.

#### i) Accounting for Value Added Tax

The Commission is not registered for VAT. Irrecoverable VAT is charged to the relevant expenditure category or, if appropriate, capitalised with additions to fixed assets.

#### j) Operating Leases

Rentals under operating leases are charged to the income and expenditure account on a straight-line basis over the term of the lease.

## 2. Income

### Grant in aid

The administration costs of the Commission are financed by grant in aid from the Northern Ireland Court Service. The grant in aid covers both revenue and capital items and has been accounted for as disclosed in the following notes.

	Notes	<b>5 months to 31 March 2004</b>	
			£'000
NICtS Grant in aid income		2,263	
Revenue incurred by NICtS		147	2,410
Less transfer to capital grant reserve;	16		
Capital incurred by NILSC			(8)
Capital incurred by NICtS			(202)
Grant credited to income and expenditure account			<u>2,200</u>

### 3. Staff costs

The number of Commissioners (including the Chairman) and committee members serving during the year was:

Commissioners	11
Committee members	46
	<u>57</u>

The average number of employees during the year was:

Management (including the Chief Executive)	12
Operational	64
Administration and support	25
	<u>101</u>

The costs incurred in respect of these employees were:

	<b>5 months to 31 March 2004</b>
	£'000
Wages and salaries	958
Agency/Temporary staff	148
Social security costs	56
Pension costs - NILGOSC	36
Funded Pension Costs	13
- Current Service Costs	13
- Pension Contributions	(3)
	<u>1,208</u>

### 4. Commissioners and Committee Members

Commission and committee members are remunerated for time spent on Legal Services Commission duties. They receive fees and reimbursements of expenses only, with no pension contributions or no other benefits.

The Commissioners operate as a non executive board. The committee members form a pool of advisors that support corporate governance and independence of decision making by the Commission in respect of the provision of Legal Aid. Their primary purpose is to service the appeals function within the Commission. Total remuneration for Commissioners during the year is given on page 42.

<b>Commissioners</b>		<b>5 months to 31 March 2004 £'000</b>
Sir Kenneth Bloomfield KBE	(Chairman – until 12 March 2004)	13
Mr Les Allamby		5
Mrs Maeve Bell OBE		4
Professor Sean Doran	(Until 29 March 2004)	4
Ms Breidge Gadd CBE		2
Mrs Jennifer Greenfield		7
Dr Jeremy Harbison CB		2
Mr Francis Hewitt		4
Mr Miceal McCoy		5
Mr Peter Osborne		3
Mr Ronald Spence CB		5
		54

## 5. Chief Executive

The Chief Executive's salary does not include a performance related bonus. He does not receive any taxable benefits in kind. He is a member of the NILGOSC pension scheme on the same basis as other staff members.

## 5. Senior management salary and pension entitlements

Details are given below of salary and pension entitlement of the Chief Executive and other senior management included in the above staff cost summaries. 'Salary' includes gross salary, performance pay or bonuses, overtime and any other allowances to the extent that they are subject to UK taxation. Senior management remunerations do not contain any taxable benefits in kind.

Name and title	Salary 2004	Benefits in Kind	Real increase in pension and related lump sum at age 65	Accrued pension and related lump sum at age 65	CETV at 31/03/2004	Real increase in CETV after adjustment
	£'000	£'000	£'000	£'000	£'000	£'000
<b>Gerry Crossan Chief Executive</b>	30 - 35	-	5 - 7.5 plus 17.5-20 lump sum	15-20 plus 50 - 55 lump sum	223	81

Gerry Crossan is entitled to a lump sum payment of 3 times his final pension.

In the absence of an executive board, Mr Crossan was supported by Drusilla Hawthorne (Legal Services), Sheila McPhillips (Operations) and John Shanks (Internal Audit), all of whom have withheld consent for disclosure of their salary and pension details.

During 2003-04, a recruitment exercise was initiated to appoint an executive board for the Commission to support the Chief Executive. Appointments to the executive board commenced in 2004-05.

### **Cash Equivalent Transfer Values**

A Cash Equivalent Transfer Value (CETV) is the actuarially assessed capitalised value of the pension scheme benefits accrued by a member at a particular point in time. The benefits valued are the member's accrued benefits and any contingent spouse's pension payable from the scheme. A CETV is a payment made by a pension scheme or arrangement to secure pension benefits in another pension scheme or arrangement when the member leaves a scheme and chooses to transfer the benefits accrued in their former scheme.

The pension figures shown relate to the benefits that the individual has accrued as a consequence of their total membership of the pension scheme, not just their service in a senior capacity to which disclosure applies. The CETV figures, and from 2003/04 the other pension details, include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the NILGOSC Pension Scheme arrangements and for which a transfer payment has been received, commensurate with the additional pension liabilities being assumed. They also include any additional pension benefit accrued to the member as a result of their purchasing additional years of pension service in the scheme at their own cost. CETVs are calculated within the guidelines and framework prescribed by the Institute and Faculty of Actuaries.

### **Real increase in CETV**

This reflects the increase in CETV effectively funded by the employer. It takes account of the increase in accrued pension due to inflation, contributions paid by the employee (including the value of any benefits transferred from another pension scheme or arrangement) and uses common market valuation factors for the start and end of the period.

## **7. Pension costs**

The Commission operates two pension schemes for the benefit of their employees, the details of which are set out below:

### **(a) Northern Ireland Local Government Officers' Superannuation Committee Scheme**

The pension benefits of the Chief Executive and most members of staff are provided through the NILGOSC Scheme. This is a funded scheme which provides benefits on a final salary basis at a normal retirement age of 65. Benefits accrue at the rate of 1/80<sup>th</sup> of pensionable salary for each year of service. In addition, a lump sum equivalent to

three years pension is payable on retirement. Commission employees contribute to the NILGOSC scheme at a rate of 1.5% of pensionable earnings. Employer contributions are made at a rate of 9.1%. For the period ended 31 March 2004 employer contributions of £36K were paid to the NILGOSC Scheme.

The Scheme's actuary carries out a valuation of the fund every three years. The actuarial valuation of the scheme at 31 March 2004 showed the total fund to be in a deficit of £392m and funding 85% of its liabilities (31 March 2001: 121%). Following this valuation NILGOSC announced a series of stepped employer contribution rate increases over the next three years to take effect from 1 April 2005. Further contribution rises are expected, taking contributions up to around the level of the 'Common Contribution Rate' of 17.3% of pay by 2010/11.

Pensions increase in payment in line with the Retail Price Index. On death, pensions are payable to the surviving spouse at a rate of half the member's pension. On death in service, the scheme pays a lump sum benefit of twice pensionable pay and also provides a service enhancement when computing the spouse's pension.

(b) Law Society of Northern Ireland Retirement Benefits Scheme

The Commission sponsors the Law Society of Northern Ireland Retirement Benefits Scheme (NPI Scheme). It is a defined benefit arrangement and a private funded scheme.

At 31 March 2004, the pension benefits of members of staff were provided through this scheme. The scheme closed to new entrants in 1998 and the majority of active members transferred to NILGOSC. The contribution rate during 2003/04 was 81.1% of pensionable salaries, inclusive of member contributions. Additional contributions may be made from time to time as agreed between the Commission, the trustees and the scheme actuary.

A full actuarial valuation was carried out at 1 August 2002 and updated to 31 March 2004 on a projected unit method by a qualified independent actuary. The valuation position on the scheme is not adequate to fully fund the accrued rights of members. During the period to 31 March 2004 the Commission agreed in principal to proceed with a process to wind up the NPI scheme and transfer remaining members to NILGOSC. The scheme is now closed to new entrants and there are no active members. The Commission contributed £62K in the period 1 November 2003 to 31 March 2004.

The major assumptions used by the actuary were:

	<b>31 March 2004</b>
Rate of increase in salaries	4.00%
Rate of increase in pensions in payment	3.25%
Rate of increase in inflation linked deferred pensions	3.00%
Discount rate	5.50%
Inflation assumption	3.00%

The assets in the scheme and the expected long term rate of return were:

	<b>31 March 2004</b>
	Value £'000
Insurance policy	3.00% <u>550</u>
Total market value of assets	550
Present value of scheme liabilities	<u>(1,030)</u>
Deficit in the scheme	(480)
Related deferred tax asset	<u>n/a</u>
Net pension liability	<u>(480)</u>

**Pension scheme costs charged to Income and Expenditure Account**

	<b>5 months to 31 March 2004</b>
	£'000
Pension Scheme costs charged to operating costs include	13
Current service cost	13
Past service cost	<u>-</u>
Total operating charge	13
Expected return on pension scheme assets	(6)
Interest on pension scheme liabilities	<u>23</u>
Net return	17
Total operating charge	<u>30</u>



**8. Other operating costs**

	<b>5 months to 31 March 2004</b>
	£'000
Accommodation	215
Employee expenses	73
IT expenditure	205
Legal expenses	55
Consultancy	122
Audit fees	85
Committee expenses	8
Permanent diminution	112
General	146
	<u>1,021</u>

**9. Commitments under leases**

Commitments under operating leases to pay rentals during the year following the period of these accounts are given in the table below, analysed according to the period in which the lease expires.

	1 Year £'000	2–5 Years £'000	5+ Years £'000
Land and buildings	-	-	278
Other – Equipment	-	12	-
	<u>-</u>	<u>12</u>	<u>278</u>

**10. Notional and other non-cash costs**

Certain services are provided and received without the transfer of cash. The amounts included in the net cost of operations to reflect these non cash costs are as follows:

	<b>5 months to 31 March 2004</b>
	£'000
Cost of capital	20
Social Security Agency	187
Taxing Master's Office	18
	<u>205</u>
	<u>225</u>

11a. Intangible fixed assets

	<b>Computer software</b> £'000
<b>Cost or valuation</b>	
1 November 2003	445
Additions	25
Disposals	-
Revaluation	(47)
31 March 2004	<u>423</u>
<b>Depreciation</b>	
1 November 2003	-
Depreciation charge in year	63
Depreciation on disposals	-
Backlog depreciation	(7)
31 March 2004	<u>56</u>
Net book value 31 March 2004	<u>367</u>
Net book value 1 November 2003	<u>445</u>

11b. Tangible fixed assets

	<b>Fixtures and Fittings</b> £'000	<b>Computer hardware</b> £'000	<b>Total</b> £'000
<b>Cost or valuation</b>			
1 November 2003	946	593	1,539
Additions	29	156	185
Disposals	-	-	-
Revaluation	(8)	(78)	(86)
31 March 2004	<u>967</u>	<u>671</u>	<u>1,638</u>
<b>Depreciation</b>			
1 November 2003	-	-	-
Depreciation charge in year	42	62	104
Depreciation on disposals	-	-	-
Backlog depreciation	-	(6)	(6)
31 March 2004	<u>42</u>	<u>56</u>	<u>98</u>
Net book value 31 March 2004	<u>925</u>	<u>615</u>	<u>1,540</u>
Net book value 1 November 2003	<u>946</u>	<u>593</u>	<u>1,539</u>

12. **Debtors:** amounts falling due within one year

	<b>31 March 2004</b>
	£'000
Prepayments and accrued income	169
	<u>169</u>

13. **Cash at bank and in hand**

	<b>31 March 2004</b>
	£'000
Cash at bank	187
	<u>187</u>

14. **Creditors:** amounts falling due within one year

	<b>31 March 2004</b>
	£'000
Creditors	(59)
Accruals	(325)
	<u>(384)</u>

15. **Provision for pensions**

	<b>31 March 2004</b>	
	£'000	£'000
Scheme Liability at 1 November 2003		(513)
Current Service Cost	(13)	
Past Service Cost	-	
Interest on Pension Scheme Liability	(17)	(30)
		<u>(543)</u>
Contributions Paid		62
Actuarial Gain		1
Scheme Liability as at 31 March 2004		<u>(480)</u>

**16. Movement on capital grant reserve**

	£'000	<b>31 March 2004 £'000</b>
At 1 November 2003		1,984
Capital expenditure paid for directly by NICtS	202	
Capital expenditure during the year	<u>8</u>	210
Released to income and expenditure account in respect of:		
Depreciation	(167)	
Permanent diminution of fixed assets	<u>(112)</u>	(279)
Deficit on revaluation of fixed assets arising during year		(8)
At 31 March 2004		<u>1,907</u>

**17. Movement on general fund**

	£'000	<b>31 March 2004 £'000</b>
At 1 November 2003		(575)
Result for period (excluding notional cost of capital)		66
Actuarial Gain - Pension Scheme		1
At 31 March 2004		<u>(508)</u>

18. Notes to the Cash Flow Statement

(i) Reconciliation of the operating deficit to the net cash flow from continuing operating activities

	5 months to 31 March 2004 £'000
Result for the period	(159)
Credit in respect of notional costs	225
Release from capital grant reserve	(279)
Depreciation	167
Permanent diminution in value of fixed assets	112
(Increase) in debtors	(112)
(Decrease) in provisions (excluding actuarial gain)	(32)
Increase in creditors	260
<b>Net cash inflow from continuing operating activities</b>	<u>182</u>

(ii) Reconciliation of net cash flow to movement in net funds

	5 months to 31 March 2004 £'000
Cash at bank and in hand 1 November 2003	-
Cash at bank and in hand 31 March 2004	187
<b>Net movement in funds</b>	<u>187</u>

(iii) Reconciliation of capital grant to purchase of fixed assets

	Notes	5 months to 31 March 2004 £'000
Cash purchase of fixed assets		3
Opening capital creditors		-
Closing capital creditors		5
Opening capital debtors		-
Closing capital debtors		-
Capital grant to acquire fixed assets		<u>8</u>
Capital incurred by NICtS	2	202
Total fixed asset additions as per fixed asset schedule	11a & b	<u>210</u>

**19. Contingent liabilities**

The Commission had no contingent liabilities at 31 March 2004.

**20. Capital commitments**

The Commission had no capital commitments at 31 March 2004.

**21. Other commitments**

The Commission is committed to expenditure in respect of software support, implementation and upgrades associated with the Phoenix software system under a 29 month managed service contract with Fujitsu Services Ltd.

As at 31 March 2004 the Commission has a future expenditure commitment of £842K.

**22. Post balance sheet events**

Regular contributions to the NPI pension scheme ceased on 30 April 2004 and remaining active members transferred to NILGOSC with effect from 1 May 2004. A payment of £490K was made to NILGOSC in September 2004 in relation to the shortfall of the transfer value of the NPI fund. The payment was approved by HM Treasury and the Northern Ireland Court Service.

**23. Summary of losses and special payments**

There were no cash losses and no special payments during the period. There were no special payments made during the period.

**24. Related party transactions**

The Commission is a non-departmental public body sponsored by the Northern Ireland Court Service. The Northern Ireland Court Service is regarded as a related party with which the Commission has had various material transactions during the year.

Breidge Gadd is a member of the Board of Commissioners. She is also a columnist with the Irish News newspaper. During the 5 month period of 2003/04 £1,075 was paid to the Irish News in respect of recruitment advertising costs.

No other member of the senior management has undertaken any material transactions with the administrative functions of the Commission during the year.

## 25. Financial Instruments

FRS 13, Derivatives and Other Financial Instruments, requires disclosure of the role financial instruments have had during the period in creating or changing the risks an entity faces in undertaking its activities. Because of the largely non-trading nature of the Commission's activities and the way in which the Commission is financed, the Commission is not exposed to the degree of financial risk faced by business entities. The Commission has very limited powers to borrow or invest surplus funds and except for relatively insignificant purchases of foreign currency, financial assets and liabilities are generated by day to day operational activities and are not held to change the risks facing the Commission.

As permitted by FRS 13, the Commission has elected to exclude from disclosure all debtors and creditors which mature or become payable within 12 months from the balance sheet date.

### Liquidity risk

The Commission is financed by a grant received from the Northern Ireland Court Service. As such, it is not exposed to significant liquidity risks.

### Interest rate risk

The Commission is not exposed to significant interest rate risks.

### Interest rate profile

The following table shows the interest rate and currency profile of the Commission's financial assets.

	Total £'000	Floating- Rate Financial Assets £'000	Fixed Rate Financial Assets £'000	Non- Interest Bearing Financial Assets £'000	Weighted -Average Interest Rate %	Weighted -Average Period for which Rate is Fixed Years	Weighted -Average Period until Maturity Years
Currency							
<b>At 31 March 2004</b>							
Sterling	187	-	-	187	-	-	Note a
<b>Gross financial assets</b>	<b>187</b>	<b>-</b>	<b>-</b>	<b>187</b>	<b>-</b>	<b>-</b>	<b>-</b>

Note a – The Commission's non-interest bearing financial assets comprise cash at bank and in hand. Cash at bank and in hand is available on demand.

### Foreign currency risk

Foreign currency would not usually form part of the Commission's assets or liabilities and as such the Commission is not exposed to any significant foreign currency risks.

**Fair values**

Set out below is a comparison by category of book values and fair values of the Commission's financial assets at 31 March 2004.

	<b>Book value £'000</b>	<b>Fair value £'000</b>
<b>Primary financial instruments</b>		
<b>Financial assets:</b>		
Cash at bank	187	187



## **REPORT OF THE COMPTROLLER AND AUDITOR GENERAL**

### **Northern Ireland Legal Services Commission**

**Period ended 31 March 2004**

#### **Introduction**

1. The Northern Ireland Legal Services Commission (NILSC) was established on 1 November 2003 under the Access to Justice (Northern Ireland) Order 2003 to provide Legal Aid in Northern Ireland. It assumed responsibility for civil legal aid from the Legal Aid Department of the Law Society of Northern Ireland, and criminal legal aid administered by the Legal Aid Department on behalf of Northern Ireland Court Service.

#### **Purpose of the Report**

2. The purpose of this report is to explain the background to my qualification of the Legal Aid Fund Account for the period ended 31 March 2004, and to comment on the delay in producing the Annual Report and Accounts.

#### **Qualification of my audit opinion**

3. I was appointed as auditor of the NILSC under Schedule 1 paragraph 17 of the Access to Justice (Northern Ireland) Order 2003. I am required to examine, certify and report upon each statement of accounts prepared by the NILSC. I have qualified my opinion on the Fund Account in the 2003-04 financial statements because of the following issues, which I detail later in my report:
  - Disagreement that the NILSC's accounting policy for provisions is compliant with accounting standards;
  - Irregular payments of around £307,000 for legal advice for a civil case, relating to the Omagh bombing; and
  - Limitation in scope arising from a lack of sufficient evidence to support the regular nature of legal aid grant expenditure.

## **Disagreement with accounting for provisions**

4. In my opinion, the accounting policy adopted by the NILSC of making provisions for the full cost of existing legal aid cases does not comply with Financial Reporting Standard 12, Provisions, Contingent Liabilities and Contingent Assets (FRS 12). FRS 12 does not permit the recognition of services not yet delivered; the liabilities recognised in an entity's balance sheet should be those that exist at the balance sheet date.
5. FRS12 requires in recognising provisions that there is a present obligation at the Balance Sheet date as a result of a past event. In my opinion at the Balance Sheet date the NILSC is only obligated to meet costs incurred by legal practitioners up to that date. I therefore do not believe that the Fund Income and Expenditure Account presents a true and fair view and have qualified my audit opinion accordingly.
6. The liability that should be recognised, is the cost incurred for legal services up to the balance sheet date of 31 March 2004, which were either billed (trade creditors) or unbilled (accruals). There are inherent difficulties in establishing the legal aid costs being incurred on individual cases and the amount which might be outstanding at the end of each period. These difficulties can result, for example, from cases lasting several years and bills arriving only following the completion of a case. Therefore neither the NILSC or my staff have been able to estimate an accrual to reasonable accuracy.
7. The affected opening provisions (£134.5 million), closing provisions (£142.2 million) and the associated Income and Expenditure charge (£27.3 million) in the financial statements would be fundamentally different if the provisions for all future costs removed and an accrual for costs incurred to the balance sheet date inserted. As a result, I have concluded that the financial statements do not give a true and fair view.

### **Irregular expenditure**

8. On 4 February 2004, the Lord Chancellor, under Article 12(8) of the Access to Justice (Northern Ireland) Order 2003, issued a Direction to the NILSC to support the costs of a civil action brought by a number of plaintiffs for suffering caused by the Omagh Bombing in August 1998. The support was limited to a maximum of £804,322.51 plus VAT, plus an immediate payment of £57,332.25. During 2003-04 the Commission paid out approximately £307,000 for this case. The NILSC 2004-05 and 2005-06 Legal Aid Fund Accounts reflect further payments of around £260,000 made between April 2004 and August 2005.
9. A judicial review in August 2005<sup>1</sup> concluded that the legislation under which the Direction had been made was unlawful, and that as a result the Lord Chancellor did not have the authority to make the Direction. The Lord Chancellor undertook to repeal the defective legislation, rescind the Direction issued, and make no further payments under it. Payments ceased in August 2005 and the Direction was formally revoked on 8 November 2005.
10. The Judge in producing his decision indicated that in his opinion although officials had acted ultra vires, the funding provided should not be withdrawn. Accordingly, the NILSC did not request repayment of the funding provided. A replacement statutory scheme was introduced under the Legal Aid (Northern Ireland) Order 2005 allowing the Lord Chancellor to issue a new Direction on 11 February 2006 creating a legal basis to make payments from that date onwards. This new Direction could not, however, retrospectively create a legal basis for the amounts that had already been paid under the previous Direction.
11. Payments made by the NILSC for the 'Omagh Case' were made solely on the basis of the Lord Chancellor's Direction. Since the judicial review concluded that the Lord Chancellor did not have the appropriate authority to make the February 2004 Direction, payments made for the 'Omagh Case' by the NILSC between February 2004 and August 2005 are not covered by legislative authority, and are therefore extra-statutory and irregular. I have therefore qualified my audit opinion in respect of this material irregularity.

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<sup>1</sup> High Court of Justice (NI) Neutral Citation No. [2005] NIQB 56

## Limitation in scope

12. The NILSC makes payments to legal professionals to meet costs incurred on cases approved for legal aid. The nature of the Legal Aid scheme, in making payments to legal advisors for services which are directly provided to Legal Aid claimants creates difficulties for the NILSC in determining whether the services were appropriately provided. The NILSC must ensure that sufficient counter fraud measures are in place, notwithstanding the regulatory framework within which the legal profession operates. In addition, means tested legal aid carries a risk that income details may be misstated on initial application, or that changes in financial circumstances during the case are not reported by the claimant.
13. Payments which may have been made by the NILSC as a result of fraudulent legal aid applications or inappropriate legal bills, would not have been applied for the purposes intended by Parliament and would therefore be irregular.
14. The NILSC do not have an estimate of the likely scale of fraud. Without a proper assessment of fraud risks and consideration of the likely scale of fraud, an appropriate response is unlikely to be put in place. As part of my examination of fraud controls I noted Internal Audit reports on Fraud Prevention and Detection in October 2005 and October 2007 which found material weaknesses due to the absence of key controls.
15. A Counter Fraud Unit was first established by the Legal Aid Department in Northern Ireland with a staff of two, this unit has continued at the NILSC and has now grown to six. The unit has had to prioritise its work carefully and has therefore been more reactive than proactive. Although the NILSC's Counter Fraud Unit conducts some monitoring, it is limited and does not provide the same level of assurance as a fully fledged inspection regime. In the absence of this key control or compensating controls in the NILSC I cannot obtain sufficient audit evidence to gain assurance that material fraud does not exist.

16. The NILSC has not introduced an inspection regime because it does not have a statutory basis to do so under the Access to Justice (Northern Ireland) Order 2003 or the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981. There are examples of other public bodies who have introduced inspection regimes without a specific statutory basis, as a matter of good practice, and the NILSC should consider doing so.
17. I have therefore limited the scope of my audit opinion on regularity because I have been unable to obtain sufficient audit evidence to enable me to conclude that payments to legal professionals are regular.

#### **Delay in producing Annual Report and Accounts**

18. No statutory time limit applies to the preparation of an Annual Report and Accounts for the NILSC. It is nonetheless unsatisfactory that it has taken four years to produce the first set of Annual Report and Accounts.
19. The predecessor body, the Legal Aid Department of the Law Society, produced cash accounts and did not therefore have to calculate its assets and liabilities at each year end. The NILSC had difficulty establishing a robust valuation for its obligation for legal costs at the year end. It has spent considerable time creating models to estimate these liabilities, but a number of key issues remain unresolved. Considerable organisational changes, together with a number of initiatives being undertaken simultaneously, and problems retrieving files for audit purposes, have led to delays in finalising accounts for the period ended 31 March 2004.
20. The NILSC needs to give a greater priority to finance issues in general and in particular the production of timely robust Annual Report and Accounts. During 2007 the NILSC has strengthened the staffing of its finance function and agreed that the timetable for accounts preparation for future years would be agreed with the National Audit Office in advance, in line with best practice. Tables of information on performance against key targets will be published on their website at the same time as these financial statements, and that this information will become an integral part of the Annual Report in due course.

## Conclusion

21. The NILSC as a new body, inheriting its predecessor's information systems and controls, has been faced with a challenging environment. I am concerned that over four years after the NILSC was established such essential controls to protect public money are still not fully in place. It is essential that public bodies have a robust system to produce timely and accurate accounting information and sufficient controls to protect the public money that they administer.





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