

**MINUTES OF THE 467th MEETING OF THE LABOUR RELATIONS AGENCY BOARD
HELD AT 9.00 am ON FRIDAY, 1 OCTOBER 2021
IN THE CRUMLIN ROAD GAOL, BELFAST**

Present: Gordon Milligan (Chair)
Geraldine Alexander (agenda items 1–6, and 9)
Louise Crilly
Clare Duffield
Deirdre Fitzpatrick
Michelle McGinley
Jill Minne
Daire Murphy
Lee Wilson

In Attendance: Don Leeson Chief Executive
Paul Lowe Director of Corporate Services
Mark McAllister Director of Employment Relations Services
Alison Wolfe Minute Secretary

Apologies: Kevin McCabe
Aideen Duggan, Board Apprentice

The meeting followed a Board Strategy Day, which included an externally facilitated workshop on corporate governance and a strategy workshop involving senior staff, held on the previous day. Key actions and decisions from the Strategy Day are recorded in the minutes below.

New Boardroom Apprentice Aideen Duggan attended the Strategy Day and was welcomed to the Board. She was unable to attend the Board meeting due to a clash with a Boardroom Apprentice programme learning day.

Declarations of Interest: Geraldine Alexander, Clare Duffield and Daire Murphy declared an interest regarding agenda item 5.

Board members met ‘in-camera’ prior to the formal commencement of the meeting. The key points from this discussion are recorded at agenda item 1.

1. Chair’s Opening Remarks

- 1.1 The Board noted Kevin McCabe’s absence on long term sick leave and wished him a speedy and full recovery.

1.2 The Board reflected on the previous day's workshops. The Board were very positive regarding the event and the opportunity to consider the Agency's strategic ambitions as well as participating in the corporate governance workshop.

1.3 It was agreed that, as the Minister for the Economy was unable to join the Board Strategy Day, the Minister should be invited to join a future meeting with the Board. It was noted that DfE's Permanent Secretary has accepted an invitation to attend the November 2021 Board meeting.

Action: Chair/Chief Executive

1.4 An action plan to progress matters discussed at the corporate governance workshop will be presented to the Board in due course for ratification.

Action: Chief Executive

1.5 The strategy workshop focused on the Agency's work to support economic recovery and growth through the promotion of good employment relations. Linked to this, Board members discussed the Communications Strategy for 2021-25 (paper BP11-09/21) and the People Strategy for 2021-25 (paper BP12-09/21). The Chief Executive outlined plans for further transformation of the Agency's structure and ways of working, which will be developed into proposals for consideration at the March 2022 Board meeting following consultation with staff and the Trade Union Side.

Action: Chief Executive

1.6 The People Strategy for 2021-25 was approved.

1.7 It was agreed to further discuss the Communications Strategy when the Communications Manager is available to present it. In the meantime, the strategy will be discussed with the Agency's new media partner, once appointed following the current procurement process, to take account of their insights; it will also be updated to include a stakeholder analysis.

Action: Director of Corporate Services

1.8 The Chair reported on discussions held during the in-camera session. This focused primarily on the impact on Board decision-making in the absence of Board members who are representative of employers or employees. It was noted that, due to an interest in the outcome of the review of the Independent Appeal Service (agenda item 5), no Board members who are representative of employees would be involved in consideration of the proposals. It was agreed to postpone consideration of the future of the Independent Appeal Service until advice can be sought on the constitutional matter.

Action: Chair/Chief Executive

1.9 The Chair reported on the meeting of the NI Engagement Forum on Covid-19, which was held on 9 September 2021. The Board noted that the Forum has proposed a review of its terms of reference to explore whether it should have a broader post-Covid remit. The Chair plans to write on behalf of the Forum to the Head of the Civil Service about this.

Action: Chair

1.10 The Chair reported on the first ever meeting of the Agency, Acas and Workplace Relations Commission (WRC) Chairs and Chief Executives, which took place at Acas' offices in London on 29 September 2021. Issues discussed included the correlation between improved productivity and good employment relations, the use of data and technology; strategic alliances, post-Covid recovery; opportunities for joint working in areas such as research and staff development; and arrangements for the planned International Agencies virtual conference on 2 December 2021. It was noted that the Chief Executives will meet every six months, with more formal annual meetings involving the Chairs.

Action: Chief Executive

1.11 It was noted that the Agency's Business Plan for 2021-22 contains a commitment to seek funding to commission research to establish the extent to which good employment relations supports improved productivity. This is a recommendation flowing from the University of Warwick recommendations regarding an Employment Relations Model for NI and a project that the Agency, Acas and WRC are considering commissioning across the three jurisdictions. In discussion, it was noted that the Agency's vision is to promote inclusive growth through good employment relations for the benefit of individuals, organisations and the economy.

Action: Chief Executive

2. Minutes of previous Board meeting

2.1 The minutes of the meeting held on 26 August 2021 (paper BP01-09/21) were agreed as an accurate record of the meeting, and for publication on the Agency's website.

Action: Secretary

3. Action Points from Previous Board meeting

3.1 The Chief Executive introduced the progress report on action points from previous Board meetings (paper BP02-09/21).

3.2 As noted at the Board Strategy Day, the Agency and DfE have agreed to present the draft Partnership Agreement to the December 2021 Board meeting for consideration.

Action: Chief Executive

3.3 It was noted that staff recognition is a key feature of the People Strategy for 2021-25.

3.4 In relation to an anomaly in the Agency's founding legislation, it was noted that DfE has indicated that the required change in primary legislation is unlikely to be progressed during the current Assembly mandate. This matter will continue to be monitored in the context of the Corporate Risk Register (agenda item 7).

3.5 The Director of Corporate Services reported feedback from the Department of Finance (DoF) on an anomaly regarding the Code of Conduct for Board Members and the Disqualification Act. DoF is currently reviewing the Code and has confirmed that the legislation has primacy.

Louise Crilly declared an interest in this matter.

3.6 A Scheme of Delegation, the importance of which was discussed at the Board Strategy Day, and will be progressed as soon as resources are available to do this work.

Action: Chief Executive/Director of Corporate Services

3.7 It was agreed that, with the new Board member induction programme now complete, a Board Learning and Development Plan will be developed and brought to a future Board meeting for consideration.

Action: Chair/Chief Executive

3.8 The Director of Employment Relations Services reported that the Agency's guidance on hybrid working will be published during the week commencing 4 October 2021. It was agreed that this is important work and timely, given that further Covid-related workplace restrictions might be eased in the coming weeks.

Action: Director of Employment Relations Services

3.9 The Director of Corporate Services provided an update on the future provision of IS Managed Services. The business case to on-board services to IT Assist has been submitted to DfE for approval. In parallel with this approval process, IT Assist will conduct a detailed technical review of the Agency's current IT arrangements to inform next steps. Progress will be reported at each Board meeting.

Action: Director of Corporate Services

3.10 Board members expressed frustration at the ongoing problems in addressing shortcomings in the functionality of the web portal and case management system (CMRS). It was noted that testing of CMRS development work has identified glitches, which are being fixed by the current provider. In the meantime, the procurement of a new contract for CMRS support is nearing completion.

Action: Director of Corporate Services

4. Chief Executive's Report

4.1 The Chief Executive presented the report (paper BP03-09/21).

4.2 The Board noted that it has been a longstanding practice for the Senior Leadership Team to be members of the Institute of Directors (IoD) for development purposes. In line with this commitment to develop the Agency's leaders, the Chief Executive has enrolled on the IoD Certificate in Company Direction.

4.3 It was noted that DfE approved the 2019-20 pay award for Board members on 29 September 2021. This will be processed for payment as soon as possible.

Action: Director of Corporate Services

4.4 The Board noted DfE's positive comments regarding the Agency's work to deliver Early Conciliation (EC) and the substantial estimated savings for claimants and employers in tribunal costs, as identified in the Department's evaluation report. The full report, which will be laid in the Assembly, will be shared with Board members once it has been signed-off by the EC Project Board when it meets on 7 October 2021.

Action: Director of Corporate Services

4.5 The Board noted arrangements for the International Agencies virtual conference on 2 December 2021. The event will comprise pre-recorded videos showcasing each agency's work, and a live plenary session conducted by videoconference. The plenary session starts at 9pm to accommodate time zone differences. Board members will have access to the videos. The conference, which was to have been an in-person event in 2020, is being co-hosted by the Agency and WRC. The Tánaiste will record a welcome video; DfE will be approached to discuss whether the Minister for the Economy will wish to reciprocate.

Action: Chief Executive

5. Review of the Independent Appeals Service

- 5.1 As recorded above, consideration of this agenda item was postponed pending advice on a constitutional matter.

6. Review of the Mediation Service

- 6.1 The Director of Employment Relations Services presented the paper on the proposed review of the Mediation Service (paper BP05-09/21).
- 6.2 While mediation is an effective form of dispute resolution, Board members noted that the mediation service has developed organically without an underpinning strategy and resourcing plan. Pre-Covid, the Agency was undertaking approximately 30 mediations per year, almost entirely for public sector customers, achieving positive outcomes in over 90% of cases (during Covid, volumes have declined substantially because parties are reluctant to use the service on a virtual basis).
- 6.3 Board members views were sought on how this service might develop, so that detailed proposals could be developed. In discussion, a number of points were made, including:
- Mediation is an important element in the range of alternative dispute resolution interventions and therefore it would unusual if the Agency did not provide it;
 - Larger organisations, such as the NI Civil Service, have introduced in-house mediation, which is an approach the Agency advocates;
 - Independence and trust are important factors in the successful delivery of mediation and the Agency has an excellent reputation in this regard;
 - It is crucial that trained mediators are able to mediate regularly in order to retain and further develop their skills; and,
 - Mediation is more embedded in the public sector and greater take-up in the private sector would support improved productivity by resolving interpersonal disputes thereby enabling experienced staff to be retained in a more harmonious workplace and avoid costly litigation.
- 6.4 There is much to consider and Board members agreed that decisions about the future of this service should be taken in the context of the Agency's priorities and resource availability. To inform this, it was agreed to take a fundamental look at the Agency's statutory duties and the resources required to deliver these and what discretion is allowed within the Agency's broad remit. A paper on this will be prepared, preferably for consideration in a strategy workshop.

Action: Director of Employment Relations Services

7. Corporate Risk Register for 2021-22

- 7.1 The Director of Corporate Services presented the Corporate Risk Register for 2021-22 (paper BP06-09/21).
- 7.2 It was noted that development of the new Risk Register had been delayed to allow for induction of new Board members, with the previous one rolled forward and updated as an interim measure. The new Register was developed at a Risk Workshop involving Audit and Risk Assurance Committee and Senior Management Team members on 5 August. It was then reviewed at the Committee meeting on 13 September 2021 and approved for submission to the Board.
- 7.3 The Board noted that there are differing views among Audit and Risk Assurance Committee members on the presentation of the Register. Internal Audit has been asked, as part of its audit of the Agency's corporate governance, to consider the current approach in light of best practice. Any recommendations for change in approach will be presented to the Board for consideration. In the meantime, the Corporate Risk Register for 2021-22 was approved.

Action: Chief Executive

8. Audit and Risk Assurance Committee – Report on meeting held on 13 September 2021

- 8.1 The Chair of the Audit and Risk Assurance Committee presented the report of the meeting held on 13 September 2021 (paper BP07-09/21).
- 8.2 The Board noted that the final version of the NI Audit Office's (NIAO) Report to Those Charged with Governance had been held-up and was not available for consideration at the Committee meeting as intended. This will be followed-up with the NIAO.

Action: Chief Executive

- 8.3 The Audit and Risk Assurance Committee report was noted by the Board.

9. Finance and Personnel Committee – Report on meeting held on 6 September 2021

- 9.1 The Chair of the Finance and Personnel Committee presented the report of the meeting held on 6 September 2021 (paper BP08-09/21).

9.2 The primary focus of the meeting was to review and shape early drafts of the four key strategies underpinning the Corporate Plan for 2021-25: the Communications and People Strategies, which were considered at the Board Strategy Day; and the Business Intelligence and Digital Strategies, which are due to be presented to the October 2021 Board meeting. The Committee Chair praised the quality of the strategies.

9.3 The Finance and Personnel Committee report was noted by the Board.

10. Business Plan Performance Report for the period ended 31 August 2021

10.1 The Senior Leadership Team presented the Business Plan Performance Report for the period ended 31 August 2021 (paper BP09-09/21), noting that there are no issues of concern at this stage of the year.

10.2 The Board noted that implementation of the new online Document Review Service has been delayed. This was because of the need to divert staff as a contingency measure in case the end of Coronavirus Job Retention Scheme (furlough) on 30 September 2021 resulted in a surge in demand for conciliation and/or the Workplace Information Service.

10.3 The Board noted that the current backlog of requests for independent appeals is likely to take around 12 months to clear. It was further noted that the speed at which these can be progressed is wholly dependent on the availability of the parties to the appeals to attend hearings.

10.4 The Chief Executive reported that he is developing a job description for a post to progress work on the Employment Relations Model for NI, support the Agency's conference, and provide secretariat support to the Roundtable and Engagement Forum. It was hoped that this post might be filled by two part-time secondments from stakeholder organisations.

Action: Chief Executive

10.5 The Board noted the Business Plan Performance Report and thanked staff for their work to date.

11. Management Accounts for the period ended 31 August 2021

11.1 The Director of Corporate Services presented the Management Accounts for the period ended 31 August 2021 (paper BP10-09/21).

11.2 The Chief Executive and Director of Corporate Services reported on their meeting with DfE officials on 26 August 2021 to discuss the Agency's financial performance to date. The Agency received positive feedback on its decision to surrender £150k of ring-fenced Economic Recovery Action Plan funding as soon as the underspend from delayed recruitment became apparent.

11.3 The Board noted the Management Accounts for the period ended 31 August 2021.

12. Any Other Business

12.1 Board members confirmed they were content with the quality of the papers and discussion at the meeting.

12.2 It was agreed to subscribe to Decision Time meeting management software.

Action: Secretary

13. Date of Next Meeting

13.1 The next Board meeting will be on 21 October 2021.

13.2 Subject to public health restrictions, it was agreed to resume in-person Board meetings. An external venue will be identified with sufficient space to facilitate social distancing for the next meeting.

Action: Secretary