



NORTHERN IRELAND  
Legal Services  
Commission

**Annual Report and Financial Statements**  
For the year ended 31 March 2009





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Legal Services  
Commission

## **Northern Ireland Legal Services Commission**

### **Annual Report and Financial Statements for the year ended 31 March 2009**

Report presented to Parliament pursuant to Schedule 1 paragraph 15(3),  
Accounts presented to Parliament pursuant to Schedule 1, paragraph 17(5),  
of the Access to Justice (Northern Ireland) Order 2003.

Ordered by the House of Commons to be printed on 5th April 2011

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This publication is also available on <http://www.official-documents.gov.uk/>

ISBN: 9780102971323

Printed in the UK by The Stationery Office Limited  
on behalf of the Controller of Her Majesty's Stationery Office

ID 2422366 03/11

Printed on paper containing 75% recycled fibre content minimum.

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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 Foreword

On behalf of the Board of the Northern Ireland Legal Services Commission (the "Commission") we are pleased to present the Annual Report and Accounts for 2008/09 which record the operational and financial targets achieved in that year.

The Commission remains committed to the provision of publicly funded legal advice, assistance and representation to those who could not otherwise afford such services and in circumstances where such help is most needed. It is also clear that decisions on whether to grant legal aid in particular cases should be taken on a fair and impartial basis, independent of government or any sectional interest. We believe this approach to be of central importance in a modern democracy (that promotes and respects human rights).

The Commission believes that the Access to Justice (NI) Order 2003 (AJO) provides a framework for the reform of civil legal aid that will enable priorities to be determined and will enhance our ability to secure the delivery of quality, targeted services within a finite budget. Reforms of criminal legal aid which are under way and planned have similar objectives.

The Commission welcomes the devolution of policing and justice. We look forward to working with our sponsor, the Department of Justice, in reforming and delivering publicly funded legal services thereby contributing to an effective, efficient justice system and to the Programme for Government of the Northern Ireland Executive. Devolution will provide real opportunities for joint working across organisational and departmental boundaries. We will continue to work closely with those whom we pay to provide legal services, primarily the private sector legal profession but also the voluntary sector.

We will also seek to enhance our co-operation with those public bodies that instigate and respond to legal proceedings and those that provide or fund advice services; this will help ensure that, where possible, issues that might result in legal aid not being granted are avoided or resolved at an early stage, to the benefit of the individuals concerned and the public purse.

While it is important to look back and review the achievements throughout 2008/09 it is also important to look to the future and rise to the challenges ahead. We are confident that through the professionalism and dedication of the staff and Commissioners we will be able to continue to make good progress in meeting those challenges.

## Management Commentary

### 1. The Commission's Business

The Commission was established on 1 November 2003 through the commencement of certain articles in the AJO 2003. The Commission assumed all responsibility for the administration of Legal Aid in Northern Ireland from the Legal Aid Department of the Law Society of Northern Ireland. In 2008/09 the Commission was a Non Departmental Public Body (NDPB) of the Northern Ireland Court Service (NICtS).

When policing and justice functions in Northern Ireland were devolved to the Northern Ireland Assembly (NIA) on 12 April 2010, the Commission became a NDPB of the Department of Justice<sup>1</sup>. The Commission is responsible for applying statutory tests to determine whether an individual should receive civil legal aid; it also pays for the legal services provided. While the judiciary is responsible for granting individuals criminal legal aid, the Commission pays for the legal services provided. In addition to administering the legal aid scheme, the Commission is tasked with reforming civil legal aid which is currently heavily focused on securing court based resolution to issues. The Commission is taking forward the reform of civil legal aid to ensure that legal aid expenditure is more focused on priority areas, delivering the right solutions to individual problems. The Commission also works closely with the Northern Ireland Courts and Tribunals Service (NICTS) (formerly the Northern Ireland Court Service (NICtS)) on the reform of criminal legal aid.

The Commission will seek to provide demand-led access to the civil and criminal justice systems within its budget allocation. In 2008/09 the Commission and the Courts authorised some 80,800<sup>2</sup> approvals for

assistance funded by legal aid. In 2007/08 the corresponding figure was some 72,000 approvals.

### 2. The Board

The work of the Commission is overseen by a Board of Commissioners. The Board Members, as set out below have experience in or knowledge of providing services in civil and criminal matters, the work of the courts, consumer affairs, social conditions and governance, including financial accounting.

The following members served on the Board during the year to 31 March 2009.

**Mr Jim Daniell**  
(Chairman, resigned 13 September 2010)

**Mr Les Allamby**

**Mrs Fiona Donnelly**

**Mr Joseph Donnelly**

**Ms Breidge Gadd CBE**

**Dr Jeremy Harbison CB**

**Mr Wilson Matthews**

**Mrs Hilary McCartan**

**Mr Miceal McCoy**

**Mrs Gillian McGaughey**  
(appointed 10 February 2009)

**Mr Ronald Spence CB**  
(appointed Interim Chair 13 September 2010)

1. The Commission was created as an NDPB by the Access to Justice (NI) Order 2003 prior to which legal aid was administered by the Legal Aid Department of the Law Society.
2. Includes Legal Aid and Advice (LAA) applications registered, certificates granted for Assistance By Way Of Representation (ABWOR), Children's Order, Civil General and certificates received for Criminal Legal aid.



The Commission works to a Corporate Governance Framework which sets out the Commission's committee structure and Scheme of Delegation. During 2008/09 the Commission worked through the Access to Justice Committee, the Service Delivery Committee, the General Purposes Committee and the Audit and Risk Committee. These committees, chaired by members of the Commission and attended by management, are charged with overseeing the operational, policy development and administrative functions of the Commission.

### **3. Senior Executives**

Mr P. Andrews served as Interim Chief Executive of the Commission (and Commission's Accounting Officer) from 24 August 2009 to 31 January 2010. On 1 February 2010, Mr. P. Andrews was appointed as Chief Executive of the Commission through an external competition. The day to day work of the Commission is managed by the Chief Executive and its Directors.

### **4. History and Statutory Background**

The Accounts of the Commission for the financial year ended 31 March 2009 have been prepared in accordance with paragraph 17 of Schedule 1 to 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. The Commission is a body corporate as set out in paragraph 1 of Schedule 1 to the Access to Justice (Northern Ireland) Order 2003 (AJO 2003).

### **5. Devolution of policing and justice functions**

On 9 March 2010, the political parties in Northern Ireland agreed that policing and justice functions should devolve to the Northern Ireland Assembly (NIA) on 12 April 2010. During the period up to the date of devolution, the Commission complied with the corporate governance and accountability framework arrangements issued by HM Treasury, including Managing Public Money.

The annual report and accounts of the Commission for the years ended 31 March 2009 and 31 March 2010 relate entirely to the period before devolution and will be laid in Parliament. References continue to be made in this report to the Northern Ireland Court Service (NICtS) as it then was, and the office of the Lord Chancellor as the parent organisations of the Commission during the reporting period.

When policing and justice functions in Northern Ireland were devolved to the NIA on 12 April 2010, the Department of Justice (DoJ) was established as a new Northern Ireland Department by the Department of Justice Act (Northern Ireland) 2010.

From this date, the Commission became a NDPB of the DoJ. As such, it now complies with the corporate governance and accountability framework arrangements issued by the DoJ and also guidance issued by the Department of Finance and Personnel (DFP), including Managing Public Money Northern Ireland. The Annual Report and Accounts for year ended 31 March 2011 will be laid in the NIA.

## 6. Principal Activities

Since its establishment the Commission and NICTs have been engaged in preparations for the commencement of the remaining articles in the AJO 2003 which provides the statutory basis for further reform of publicly-funded legal services in Northern Ireland.

Publicly-funded legal services help those people who need assistance to deal with problems that affect them most. Civil legal aid funds legal services for people 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 funds the provision of legal advice and assistance to eligible people, either free at the point of service or upon payment of a contribution. Criminal legal aid provides legal advice, assistance and representation to people who face criminal charges and funds legal advice from a solicitor at police stations. There are no contributions payable in Criminal cases.

NICTs funded the running costs of the Commission through a Grant-in-Aid allocation and the expenditure of the Commission on criminal and civil legal aid through a Grant.

The key activities of the Commission are:

- (a) considering applications for civil family and non-family legal aid;
- (b) assessing claims for civil and criminal legal aid, including advice and assistance;
- (c) developing and implementing a programme of reform in civil legal aid, and in conjunction with the NICTS,

implementing reformed procedures in criminal legal aid;

- (d) making payments and reporting on the expenditure in relation to civil and criminal legal aid;
- (e) maintaining and developing the systems, procedures and relationships which support these key activities; and
- (f) an appeals function comprising:
  - An Appeals Committee which determines appeals against the refusal of civil legal aid.
  - A Fees Assessment Committee which advises on appeals against the assessment of claims for work done under civil legal aid certificates.
  - The Appropriate Authority, a Committee established under the Legal Aid in Criminal Proceedings (Costs) Rules (NI) 1992, which continues to determine claims made for work done in criminal proceedings and related appeals where the Criminal legal aid certificate was granted prior to April 2005.
- (g) an audit and risk function comprising:
  - An Audit and Risk Committee, which also fulfils a role as the Business Assurance and Corporate Risk management committee, supported by an internal audit service provided by a firm of recognised and approved practitioners and informed also by external audit findings, provides a constant challenge function of the work of the Commission, including quarterly reports covering all of the

Commission's activities. Audit areas included within the internal audit reporting remit are, procurement procedures, debt control, budgetary control, provisioning and bank and cash controls. The Committee also provides a corporate oversight of all of the Commission's activities and through its activities provides an over-arching level of corporate governance. Budgetary challenges, responding to the Daniell review and implementing the Policy Reform Programme are critical areas that the Commission is addressing going forward.

During 2008/09 the Commission further developed procedures for processing claims under the Legal Aid for Crown Court Proceedings (Costs) Rules (NI) 2005. Under these rules the Commission may grant certificates in relation to Very High Cost Cases (VHCC) and where it does, the assessment of any claims in relation to these certificates is carried out by the Taxing Master (an independent judicial officer) and the Commission makes payment on foot of the Master's determination.

## 7. Research & Development

During 2008/09, the Commission continued to progress key elements of the reform programme in pursuance of the objectives set for the Commission by the Lord Chancellor on its establishment.

This included:

- (a) further research and consultation into potential alternatives to the current arrangements for funding money damages cases under civil legal aid;

- (b) the development of the evidence-based research to underpin the development of the Northern Ireland Funding Code and revisions to the financial eligibility tests for applicants for legal aid; and

- (c) a consultation was undertaken on the development of Community Legal Services in December 2007, ending in March 2008. The responses to the paper will form the basis for development of legal advice and information services provided through pilots funded by the Commission under the AJO. This work is a vital step on the path of the implementation of the AJO 2003. The development of Community Legal Services (along with other reforms the Commission is developing) will help achieve the objective of ensuring that within the resources made available to the Commission, the people of Northern Ireland will have access to Civil Legal Services.

The Commission continued to develop its business assurance model during 2008/09, developing its corporate and business risk registers in support of improvements in service delivery and the development of the reform programme.

## 8. Future Developments

During 2008/09, the Commission made further progress in the preparations for commencement of the remaining articles of the AJO 2003 namely the implementation of the Northern Ireland Funding Code and revised financial eligibility tests for applicants. It is expected that the legislation will come before the Assembly during 2011.

In relation to the reform of Criminal Legal Aid, the Commission continues to work closely with, and support, NICTS with this project.

On 13 September 2010, the NIA Justice Minister announced a fundamental review to examine how best to help people secure access to justice. The Terms of Reference are to review legal aid provision in Northern Ireland and to develop proposals to improve access to justice. A preliminary consultation paper was published on 17 November 2010 and the Commission will be formulating its response in due course.

## **9. Post Balance Sheet Events**

On 12 April 2010, the Commission became a NDPB of the DoJ, reporting to the DoJ through the newly established NICTS. Point 5 of the Annual Report on the Devolution of Policing and Justice functions refers.

The 2008-09 financial statements have been prepared on the basis that the Commission was a NDPB of the NICTS for the entire financial year and these will be laid in Parliament. There is no impact on the 2008-09 financial statements arising from the transfer of functions to the NIA on 12 April 2010.

The Government announced in the Emergency Budget on 22 June 2010 that future pension increases in public sector schemes will be linked to the Consumer Price Index (CPI) rather than the Retail Price Index (RPI). Traditionally the actuarial method of calculating the NILGOSC scheme has utilised RPI. The change to CPI, which is traditionally lower than RPI, will be reflected in the accounting treatment in the 2010-11 financial statements.

There have been no significant events since the end of the financial year, which would

affect the results for the year or the assets and liabilities at the year end.

## **10. International Financial Reporting Standards adoption**

The Commission is preparing for the move to International Financial Reporting Standards (IFRS) and the 2009/10 accounts will be IFRS compliant. The principle area which it is anticipated will be impacted by the introduction of IFRS reporting relates to employee benefits.

## **11. Equality of Opportunity**

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

- persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
- between men and women generally;
- between persons with a disability and persons without; and
- between persons with dependents and persons without.

## **12. 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. Managers hold regular section and team meetings with staff to communicate the Commission's plans, receive feedback, and give staff the opportunity to contribute to the planning process. The Commission is committed to improving communications with staff and a detailed action plan has been developed by the Commission to address this issue.

During 2008/09 the Commission published weekly staff bulletins, briefed staff through monthly open forum meetings with the Chief Executive and held a communications forum with a view to quality assuring the communications processes within the Commission. The Commission held a staff conference in June 2008 that included participation from the Commission's key partners, the legal profession, voluntary sector and a senior member of the Northern Ireland Judiciary. As part of the conference, evaluation forms were received from staff and a number of areas for improvements were identified. These were predominately around the area of communication.

### **13. Training**

In 2008/09, 87 (135) training events representing 284 (590) training days were attended by staff. The commission not only focuses on "on-the-job" training, specific to a job role, but also on the broader skills required to work in and manage a modern, challenging environment. Training opportunities have been taken up by all grades and across all directorates.

### **14. Health & Safety**

The Commission is committed to providing for staff an environment that is, as far as possible, safe and free from risk to health. In line with this commitment, the Commission has complied with the relevant legislation.

### **15. Managing attendance**

The average day's sick absence per employee for the year 1 April 2008 to 31 March 2009 was 12.2 days (13.5 days in 2007/08). This is further broken down over long term and short term absence as follows:

- Long Term (a spell of 28 days or longer) - An average of 2.8 days per employee (4.9 in 2007/08)
- Short Term (less than 28 days) - An average of 9.4 days per employee (8.6 in 2007/08)

### **16. Pension Schemes and Liabilities**

The Commission contributes to the Northern Ireland Local Government Officers' Superannuation Scheme (NILGOSC), membership of which is optional for employees. In line with the requirements of Financial Reporting Standard 17: Retirement Benefits, the 2008/09 financial statements reflect the Commission's proportion of the pension deficit in the NILGOSC scheme.

A small number of retired members of staff remain on a legacy pension scheme; the Law Society of Northern Ireland Retirement Benefits Scheme, the National Provident Life (NPI) pension scheme. The NPI 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 the NILGOSC Scheme. The assets within the NPI scheme are

considered adequate to fully fund the accrued rights of remaining members. The Commission is in the process of winding up the fund. Details of these pension schemes and the impact of applying FRS 17 are disclosed in note 3 to the Grant in Aid account.

### **17. Going Concern**

The Commission operates as a going concern, in spite of significant net liabilities. The liabilities of the Commission relate to its obligation to pay legal costs against legal aid certificates issued. The Commission was financed from resources voted by Parliament up to 12 April 2010 and in the future will be financed from resources voted by the NIA.

### **18. Fixed Assets**

The movement of fixed assets during the year is set out at notes 8(a) and 8(b) in the Grant in Aid account. There were no significant changes during the year.

### **19. Prompt Payment**

With respect to grant in aid costs, the Commission aimed 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 83% of bills were paid within this standard, (2007/08:82%).

The then Prime Minister's statement of 8 October 2008 indicated that all central Government Departments should pay suppliers as soon as possible with the aim of bringing forward all payments to within 10 days. Following the guidance issued by Gus O'Donnell (Cabinet Secretary) on 17 November 2008, the Commission revised internal timescales for the processing and payment of

invoices. Additional payment cycles have been introduced and reporting against the 10 day target will be reported in 2009/10 accounts.

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

### **20. Receipts**

Applicants for legal aid 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. Statutory Charge and Exemptions are commented on fully at point 4 on page 33.

### **21. Charitable Donations**

As a public body, the Commission has not made any charitable donations.

### **22. Board Member Responsibilities**

The responsibilities of the Board Members are set out in the Management Statement which was issued by the NICtS in March 2007. They have corporate responsibility for ensuring that the Commission complies within any statutory requirements for the use of public funds.

### **23. Auditors**

The financial statements up to and including 2009/10 will be audited by the Comptroller and Auditor General (C&AG) in accordance with the AJO 2003. He is Head of the National Audit Office (NAO). He and his staff are wholly independent of the Commission and he reports his findings to Parliament. The audit of the financial statements for 2008-09 resulted in an audit fee of £70,000 (2007/08 £65,000). This fee is included in grant in aid administration costs, as disclosed in note 4 in the Grant in Aid account. The C&AG did not provide any non-audit services during the year.

### **24. Disclosure of Audit Information**

So far as the Accounting Officer is aware, there is no relevant audit information of which the Commission's auditors are unaware. The Accounting Officer has taken all the steps that he ought to have taken to make himself aware of any relevant audit information and to establish that the Commission's auditors are aware of that information.

### **25. Risk Management and Register**

The Commission has maintained a risk register for a number of years. This is continually updated and monitored throughout the year.

### **26. Statement on Information Risk**

The Commission monitors and assesses its information risks, in order to identify and address any weaknesses and ensure continuous improvement of its systems. A Project Team established in April 2009 has taken forward a review of the internal systems to ensure compliance with the Cabinet Office Frameworks and the

development of best practice. From the work of this Project Team an action plan has been developed to address any weaknesses and recommended improvements. There were no incidents of loss of protected personal data during 2008/09 which were required to be reported to the Information Commissioner's Office.

### **27. Commission Members Interest**

Details of company directorships and other significant interests held by Commission members are set out within the related party disclosures at note 18 in the Grant account and note 21 in the Grant in Aid account. The Commission maintains a Register of Interests which is updated as required and in addition, any conflicts of interest are declared by the Board members at each meeting. Access to the Register of Interests may be gained by contacting the Secretary to the Commission.

### **28. Environmental & Sustainability Initiatives**

The Commission remains committed to the purchase of services that are environmentally friendly and goods which can be recycled, where possible, in an energy-efficient way. The recycling of significant numbers of printer and copier toner cartridges is an example of this ongoing commitment. During the reporting period, an Environmental & Sustainability working group was formed amongst staff members, to examine initiatives for waste recycling, purchase of recycled paper products, paper reduction through greater use of double-sided printing, wider use of e-mail to external stakeholders and opportunities to conserve energy.

## **29. Social and Community Issues**

The Commission continues to develop and implement a communications strategy in support of the transformation programme, focusing on the needs of the public, suppliers of legal services and other key stakeholders.



## Operating and Financial Review

### 1. Funding

The Commission was funded by grants provided by the NICtS.

### 2. Results for the Year

For the financial year to 31 March 2009 the Commission received Grant funding of £80,022k and Grant in Aid funding of £6,961k. Grant expenditure for the year totalled £75,283k and Grant in Aid expenditure £7,244k. At 31 March 2009, the Commission had outstanding Provisions for Liabilities and Charges of £115,459k (31 March 2008, £124,644k restated) in respect of grant. This is the Commission's estimate of the cost of the work completed at the year end but not yet billed. The restatement at 31 March 2008 is due to a change in the estimation technique applied in the calculation of provisions. Further detail on the change in estimation technique is included at Note 1 to the Grant Account.

### 3. Operating Performance in the Year

The Grant funding received from the NICtS is used in a variety of ways. There are 5 main strands of legal aid which cover both civil and criminal cases. Outlined below are the various ways in which legal advice, assistance and representation is provided under the existing legal aid scheme; namely:

#### (a) Legal Advice and Assistance (LAA)

This scheme is popularly known as the "Green Form" scheme and allows an individual to obtain legal advice from a solicitor on a point of Northern Ireland law. This scheme requires the individual applicant's financial eligibility to be assessed by a solicitor and can involve the applicant paying a contribution. While it covers a significant volume of cases (there

were some 34,000 approvals for assistance in 2008/09), the average costs are relatively small and Green Form currently accounts for less than 5% of total legal aid expenditure (i.e. £3.4m in 2008/09).

#### (b) Assistance By Way of Representation (ABWOR)

This is an extension of the Advice and Assistance scheme and allows the solicitor to institute proceedings on behalf of the assisted person in court (normally civil matters or matters relating to children). This scheme involves individual applicant's financial eligibility being assessed and can involve the applicant paying a contribution. There were some 3,600 approvals for assistance in 2008/09. It currently accounts for less than 2% of total legal aid expenditure (i.e. £1.5m in 2008/09).

#### (c) Children Order

This is a form of ABWOR dealing exclusively with cases brought under the Children Order primarily in the Family Proceedings Court. This scheme involves individual applicant's financial eligibility being assessed and can involve the applicant paying a contribution. There were some 5,500 approvals for assistance in 2008/09. It currently accounts for less than 7% of total legal aid expenditure (i.e. £5.1m in 2008/09).

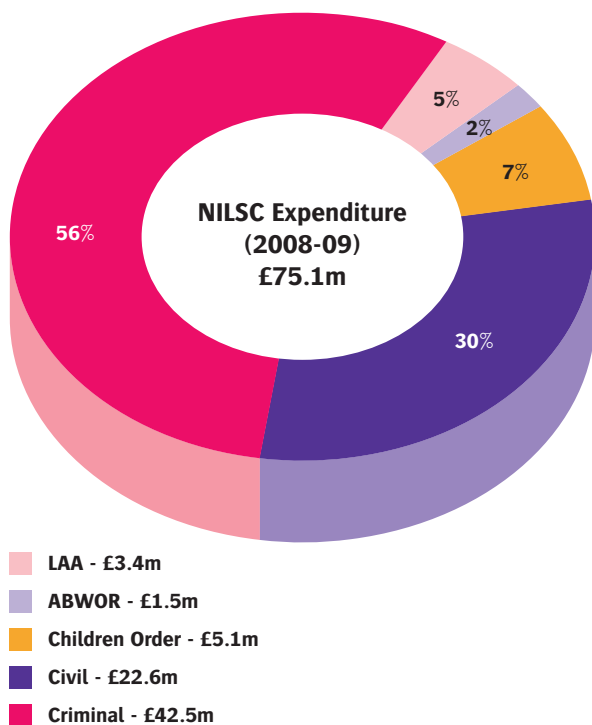
#### (d) Civil Legal Aid

Civil Legal Aid provides legal representation in civil court proceedings, primarily in the County Court and High Court. Civil Legal Aid allows someone to obtain legal representation by a solicitor and barrister, either to bring, or to defend a court case. This scheme involves individual applicant's financial eligibility being assessed and can

involve the applicant paying a contribution. There were some 7,100 approvals for assistance in 2008/09. This is the second largest area of legal aid expenditure accounting for 30% of total expenditure (i.e. £22.6m in 2008/09).

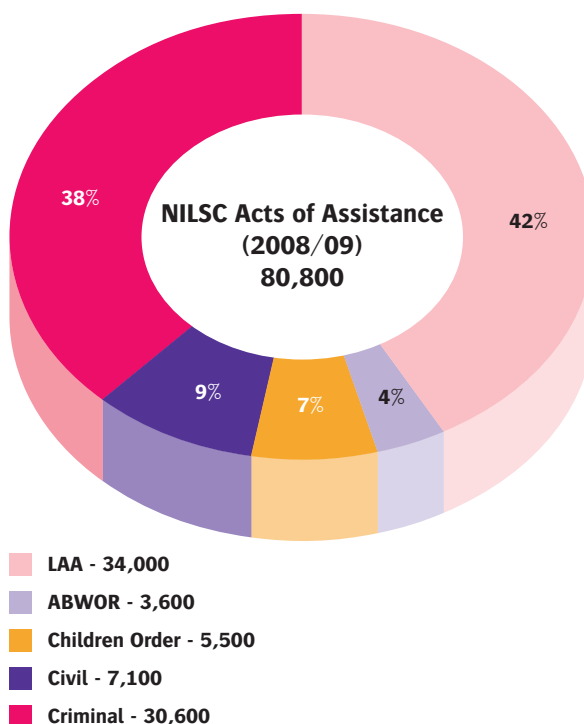
**(e) Criminal Legal Aid**

Criminal Legal Aid provides free legal representation by a solicitor and barrister to defend someone charged with a criminal offence in the Magistrates’ Court or the Crown Court. Individual financial eligibility is assessed by the judiciary who grant criminal legal aid if it is in the interests of justice to do so. There were 30,600 approvals for assistance in 2008/09. This is the largest area of legal aid expenditure, accounting for 56% of the total legal aid budget (i.e. £42.5m in 2008/09).



The above diagram provides an illustration of the expenditure on legal aid in 2008-09.

The diagram below provides an illustration of the volume of legal aid cases in 2008-09.



**4. Business Plan**

The financial year 2008/09 is the fifth full year since the Commission came into existence. This commentary will begin by highlighting the key achievements in this period under three Strategic Themes as set out in the 2008/09 Business Plan.

**Strategic Theme 1**  
**To improve the delivery of existing legal aid services**

The Commission exists to provide access to justice to those most in need, when they need it most. Access to justice is provided mainly by a network of solicitor practices located throughout Northern Ireland and by members of the Bar Council in Northern Ireland instructed by solicitors in legally aided cases.

Since its establishment on 1 November 2003, staff within the Commission have continued to adjudicate on applications for civil legal aid; provide authorities for disbursements in civil and criminal cases; and process claims for payment in both civil and criminal cases. The importance of prompt accurate payment to the legal profession is well understood by staff within the Commission and this is one of the main drivers for the introduction of standard fees. It is important to note that where standard fees have been introduced, the processing and payment backlogs, which have been a feature of the legal aid environment in Northern Ireland, have diminished.

In order to improve processing times, challenging targets were set by the Commission for civil and criminal legal aid in 2008/09. These targets did not include parallel work streams undertaken by staff to reduce service delivery backlogs. It is important to note that targets set were met in most instances.

**Strategic Theme 2**  
**To reform publicly funded legal services**

In addition to improving the efficiency of service delivery processing the Commission was charged by the Lord Chancellor with

developing and delivering a challenging reform programme in order to bring control and predictability to the civil legal aid fund. The legal aid budget is currently demand-led and increases in costs are not specifically volume driven. The reform programme led by the Commission is mainly focused on civil legal aid with reforms to criminal legal aid being led by the NICTS. In 2008/09, the Commission made continued progress with key elements of the reform programme including:

- (a) the preparatory development of the evidence-based research to underpin the development of the Northern Ireland Funding Code and revisions to the financial eligibility tests for applicants for legal aid;
- (b) further research and consultation into potential alternatives to the current arrangements for funding money damages cases under civil legal aid;
- (c) the publication of an exposure document setting out the Commission's early thinking on a registration scheme for providers of publicly-funded legal services;
- (d) a consultation was undertaken on the development of Community Legal Services in December 2007, ending in March 2008. The responses to the paper will form the basis for development of legal advice and information services provided through pilots funded by the Commission under the AJO. This work is a vital step on the path of the implementation of the AJO 2003; and

- (e) the publication of the Commission's policy on Delivering Value for Money in publicly-funded legal services.

During 2008/09 the Commission continued to fund a contract with the Law Centre (NI) that covered the provision of assistance and services in relation to immigration and asylum issues in Northern Ireland; deal with some related casework and provide training and support to other service providers in this specialised and complex area. The funding of the Law Centre in this way has been an important step in giving effect to the Commission's commitment to a mixed model (legal services provision by providers from the private and voluntary sectors) of service delivery for legal aid in Northern Ireland.

In addressing both a reform and service delivery challenge the Commission introduced a non-statutory standard fee regime to facilitate prompt payment for Children Order cases processed in the Family Care Centre. This payment mechanism addressed a long standing absence of a remuneration mechanism that could deal with a significant backlog of cases in a short timescale. This was the earliest example of a standard fee in civil legally aided cases and has provided a template that will be drawn upon as the payment of standard fees increases in the civil jurisdiction.

The Commission reviewed revised appeal processes in relation to a range of civil matters under unreformed legislation in 2008/09.

During 2008/09, the Commission made further progress in the preparations for commencement of the remaining articles in the AJO 2003. The commencement date is likely to be 2011.

The Commission is very aware of the importance of communication with the legal profession and other key stakeholders particularly as the reform of legal aid is developed. To that end, specific consultative forums have been established with representatives from the not for profit advice sector such as the Law Centre, Housing Rights, Advice Northern Ireland, Citizens Advice Bureau, Law Society and Bar Council. A Civil Legal Services Stakeholder Forum has also been established which includes representation from the judiciary, Children's Law Centre, Children's Commissioner and Northern Ireland Guardian Ad Litem Agency.

**Strategic Theme 3**  
**To strengthen the governance arrangements to enable the Commission to carry out effectively all its responsibilities**

The Commission continued to develop its business assurance model during 2008/09, developing its corporate and business risk registers in support of improvements in service delivery and the development of the reform programme. During 2008/09, the Commission, in conjunction with the NICTS, strengthened its project management capacity through the appointment of a senior project manager to assist the Commission management in the development of the reform programme. The Commission published a Delivery Plan which sets out the key steps in the preparations for the commencement of the AJO 2003.

The Commission continued the review of its risk management policy. Throughout 2008/09, the Commission took action under this policy to analyse and define the risk to financial management posed by unreformed legal aid legislation and also to develop a

joint financial risk management approach between the Commission and the NICtS, in its role as the sponsoring department for the Commission and as the body responsible for criminal legal aid policy. The Commission continued to develop its project management processes around the reform programme and to identify the risks to this programme. These risks were, and continue to be, mainly around resourcing the reform programme and ensuring that the Commission has the skills and experience in a relatively small organisation to deliver on fundamental reform of the legal aid provision in Northern Ireland.

The funding of legal aid in year and the forecasting of it for future years remained a challenge during 2008/09 and the Commission worked closely with the NICtS throughout the year to manage the Comprehensive Spending Review process.

The Commission has an Audit and Risk Committee, which also acts as the business assurance and risk management committee. The Commission received detailed reports, together with recommendations for the improvement of the Commission's system of internal control and risk management. A key issue for the Audit and Risk Committee was the late completion of the financial accounts and annual reports.

The Commission has strived to make progress in the publication of its Annual Report and Accounts. Following audit clearance, laying and publication of these accounts the Commission is striving to have the 2009/10 accounts audited and published prior to 31 March 2011. Thereafter the Commission is aiming to return to normal reporting timeframes for the 2010/11 accounts.

## **5. Financial Review and Landscape Review**

In the final quarter of 2007, the NICtS and the Commission jointly sponsored a review of the Commission's financial requirements for 2007/08 and the ensuing three years covered by the 2007 Comprehensive Spending Review. These reviews raised significant issues about the way in which the Commission operates and, building on them, the Board made important decisions to be carried through in future years. While the exercises have proved to be of considerable value to the Commission, together with uncertainties over funding, they have contributed to a planning environment in a constant state of flux. The Commission received the Landscape Review report in the final quarter of 2007/08 and prepared a detailed action plan to address the recommendations in the review. The Review and Action Plan are available for review on the Commission's website.

## 6. Key Performance Indicators

Each year the Commission sets a series of Key Performance Indicators (KPIs). These are designed to help the Commission work towards meeting its Strategic Objectives and ensure that the Commission maintains fair access to justice.

While the KPIs will vary from year to year, there are some which will remain as constant measures, thereby ensuring a sustainable legal aid scheme through targets on the Commission's finances.

The monitoring of KPI's has not been addressed specifically as part of the Commission's Internal Audit reviews by ASM Howarth. This has been brought to the attention of the Audit Committee and will be addressed in the future.

The following tables illustrate the Commission's performance against the pre-defined key performance indicators for the 2008/09 financial year.

Target description	Target performance	Actual performance achieved
<b>Criminal</b>		
Authorisations of payment for claims paid under Crown Court Rules (excluding claims citing exceptionality)	75% within 6 weeks 90% within 16 weeks	61% within 6 weeks 76% within 7 weeks
Authorisations of payment for claims paid under Magistrate's Court 1992 Rules	75% within 12 weeks 90% within 20 weeks	76% within 9 weeks 90% within 16 weeks

Target description	Target performance	Actual performance achieved
<b>Civil</b>		
The period between emergency applications and certificate granted	80% within 1 day 85% within 2 days 90% within 3 days	80% within 2 days 87% within 3 days 91% within 5 days
Adjudication decisions on properly completed applications for civil legal aid	50% within 12 weeks 80% within 20 weeks	73% within 12 weeks 93% within 20 weeks
Authorisations for payment to be made in respect of claims being registered	75% within 6 weeks	81% within 12 weeks

Target description	Target performance	Actual performance achieved
<b>Assistance by Way of Representation (ABWOR)</b>		
The period between properly completed application registered and certificates for legal aid issued	95% within 3 days	89% within 1 day 90% within 2 days 91% within 3 days 95% within 10 days
Authorisations for payment to be made in respect of claims being registered	75% within 6 weeks	82% within 6 weeks

Target description	Target performance	Actual performance achieved
<b>Children Order</b>		
The period between properly completed application registered and certificates for legal aid issued	95% within 3 days	93% within 1 day 93% within 2 days 94% within 3 days 95% within 6 days
Authorisations for payment to be made in respect of claims being registered	75% within 6 weeks	46% within 6 weeks 75% within 14 weeks

Target description	Target performance	Actual performance achieved
<b>Legal Advice and Assistance (LAA)</b>		
Authorisations for payment to be made in respect of claims being registered	75% within 6 weeks	65% within 6 weeks 75% within 8 weeks

In each of the KPIs above, the Commission's performance in registering and adjudicating on cases, in general, took longer than the target timeframes envisaged by the Commission. The different degrees of complexity in cases mean that in some categories, it is not realistic to provide for 100% achievement within a particular target time. However, management information on the longer running cases is kept under review in order to ensure that these cases are processed as quickly as possible.

Payment performance by comparison was slightly ahead of the thresholds established by the Commission in almost all of the categories listed above.

In addition to the performance indicators above, the Commission also publishes additional performance statistics on its website [www.nilsc.org.uk](http://www.nilsc.org.uk).

## Remuneration Report

### Remuneration Policy

Unless otherwise stated below, 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. In the financial year to 31 March 2009, Board members' remuneration was determined by the Lord Chancellor.

### Committee Members

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



**Commissioners (Audited)**

Commissioners are remunerated for time spent on Commission duties. They receive a salary and reimbursements of expenses. The Commissioners operate as a non executive board. Total remuneration for Commissioners during the year is given below.

<b>Commissioners</b>		<b>2008-09 £'000 Salary</b>	<b>2008-09 £'000 Benefits in kind</b>	<b>2007-08 £'000 Salary</b>	<b>2007-08 £'000 Benefits in kind</b>
Mr Jim Daniell (Chairman)	Appointed 12 Nov 2007; Resigned 13 Sep 2010	65-70	10-15	20-25	5-10
Mr Les Allamby	Appointed 28 July 2003; Reappointed 1 Aug 2006	15-20	0-5	15-20	0-5
Ms Fiona Donnelly	Appointed 1 Sep 2006; Reappointed 1 Sep 2009	15-20	0	15-20	0
Mr Joseph Donnelly	Appointed 1 Sep 2006; Reappointed 1 Sep 2009	10-15	0-5	15-20	0-5
Mr Brian Fee QC	Appointed 1 Jan 2005 – 31 Dec 2007	-	0	-	0
Ms Breidge Gadd CBE	Appointed 28 July 2003; Reappointed 1 Aug 2006	10-15	0-5	15-20	0-5
Dr Jeremy Harbison CB	Appointed 28 July 2003; Reappointed 1 Aug 2006	15-20	0	20-25	0
Sir Anthony Holland*	Appointed 19 April 2004 to 31 July 2007	0	0	15-20	0-5
Mr Wilson Matthews	Appointed 1 Sep 2006; Reappointed 1 Sep 2009	10-15	0-5	20-25	0-5
Ms Hilary McCartan	Appointed 1 Sep 2006; Reappointed 1 Sep 2009	10-15	0	15-20	0-5
Mr Miceal McCoy	Appointed 28 July 2003; Reappointed 1 Aug 2006	20-25	0-5	25-30	0-5
Mrs Gillian McGaughey	Appointed 10 Feb 2009	0-5	0	-	-
Mr Ronald Spence CB**	Appointed 28 July 2003; Reappointed 1 Aug 2006	10-15	0-5	35-40	0-5

## Salary

Salary costs include basic remuneration and also remuneration in respect of additional days worked.

During 2008/09 basic remuneration for the Chairman was £40k-£45k and for the Commissioner's was £10k to £15k.

During 2007/08 basic remuneration for the Chairman was £40k-£45k and for the Commissioner's was £5k-£10k.

\* Sir Anthony Holland was Chairman from 19 April 2004 to 31 July 2007.

\*\* Mr Ronald Spence CB was Interim Chairman from 3 August 2007 to 11 November 2007.

## Benefits in Kind

The monetary value of benefits in kind covers any benefits provided by the Commission and treated by HM Revenue and Customs as a taxable emolument. Approved expenses on Commission business include, approved mileage claims, parking, taxis, flights, trains and accommodation.

### Chief Executive and Directors (Audited)

Details are given below of salary and pension entitlement of the Chief Executive and other senior management.

Name and title	Salary 2009 £'000	Salary 2008 £'000	Real increase in pension and related lump sum at age 65 years £'000	Accrued pension and related lump sum at age 65 years £'000	CETV at 31/03/09 £'000	CETV at 31/03/08* £'000	Real increase in CETV after adjustment £'000
Mr G Crossan Chief Executive	85-90	85-90	0-2.5 plus 0-2.5 related lump sum	25-30 plus 75-80 related lump sum	452	409	23
Mr I Hearst Director of Service Delivery (left 7 September 2007)	-	25-30 (60-65 full year equivalent)	-	-	-	75	-
Dr T Donaldson Director of Policy & Service Development	70-75	65-70	0-2.5 plus 0-2.5 related lump sum	10-15 plus 35-40 related lump sum	226	197	20

*\*The figure may be different from the closing figure in last year's accounts. This is due to the CETV factors being updated to comply with the Occupational Pension Scheme (Transfer Values) (Amendment) Regulations 2008.*

Mr G. Crossan was appointed as Chief Executive of the Commission in October 2003 and he took up the position with the establishment of the Commission on 1 November 2003. He remained in his role until 31 July 2009.

Mr P. Andrews served as Interim Chief Executive of the Commission (and Commission's Accounting Officer) from 24 August 2009 to 31 January 2010. On 1 February 2010, Mr. P. Andrews was appointed as Chief Executive of the Commission through an external competition.

Dr. T. Donaldson was appointed Director of Policy and Service Development on 13 September 2004. On 1 September 2007 Dr. Donaldson took up the combined role of Director of Policy and Service Delivery. On 24 August 2009 Dr. Donaldson was appointed Director of Policy and Service Delivery and Civil Service Delivery.

Ms L. Johnston was appointed to the temporary role of Finance Director from 7 November 2006 to 8 June 2009 through secondment from the NICtS. Her salary costs are met by the NICtS and as such details are not disclosed above. A charge of £60K was incurred for 2008/09 by the Commission in respect of Ms Johnston's basic salary costs. (£59K 2007/08). In addition £14k was incurred for 2008/09 by the Commission in respect of Ms Johnston's accruing superannuation liability charges

(pension costs) and £6k in respect of earnings related national insurance.

Mrs J. Kelly was appointed Director of Corporate Services from 1 June 2009.

Mrs S. McPhillips was appointed Director of Criminal Defence Services from 21 September 2009.

### **Salary**

'Salary' includes gross salary, performance pay or bonuses, overtime and any other allowances to the extent that they are subject to UK taxation.

### **Benefits in Kind**

Senior management did not receive any taxable benefits in kind.

### **Pension Benefits**

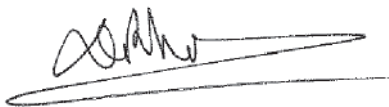
The pension benefits of the senior management team and employees are provided through the Northern Ireland Local Government Officers' Superannuation Committee Scheme (the NILGOSC Scheme). This is a funded scheme which provides benefits on a 'final salary' basis at a normal retirement age of 65 years. Benefits accrue at the rate of 1/80th 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. During 2008/09 employer contributions were made at a rate of 19.5% (includes an additional 4.5% contributed on behalf of employees).

### 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 other pension details, include the value of any pension benefit in another scheme or arrangement which the individual has transferred to the NILGOSC



**Paul Andrews**  
Chief Executive  
10 February 2011

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 worked out within the guidelines and framework prescribed by the Institute and Faculty of Actuaries and do not take account of any actual or potential reduction of benefits resulting from Lifetime Allowance Tax which may be due when pension benefits are taken.

### 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.

## Statement of the Northern Ireland Legal Services Commission and the Chief Executive's Responsibilities

In the year to 31 March 2009 the NICTS was responsible to Parliament for the proper and efficient use of monies voted for the cost of the Grant in Aid funded operations and the Legal Aid Fund. The NICTS exercised these responsibilities through the Department's Principal Accounting Officer, who has designated me, the Chief Executive of the Commission, as the Commission's Accounting Officer. From 12 April 2010, the responsibility for the NICTS and the Commission transferred to the Northern Ireland Assembly (NIA).

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 had been applied to the purposes intended by Parliament and for ensuring that the Commission's officers fully understood the principles which they should apply to expenditure and the authorities which govern them. From 12 April 2010, my responsibility to Parliament transferred to the NIA in respect of the matters above.

I act in accordance with a range of certain general and specific responsibilities and with other instructions and guidance issued periodically by the NICTS, the HM Treasury and the Cabinet Office – in particular the

HM Treasury's NDPB Accounting Officer guidelines in Managing Public Money. From 12 April 2010, the Commission will be governed by guidance issued by the DoJ and the Department of Finance and Personnel in Northern Ireland.

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 paragraph 17(1) of Schedule 1 to the AJO 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. Accounts from the financial year 2010-11 onwards will be laid in the NIA.

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 2008/09 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 Managing Public Money and in particular 'The Responsibilities of an NDPB Accounting Officer'. From 12 April 2010, this responsibility devolved to the DoJ and NIA.

In 2008-09 the Commission was an NDPB of the NICtS. The Board of the Commission has a corporate responsibility for ensuring that the Commission fulfilled 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, established 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 ensured that its governance responsibilities could be discharged in accordance with established criteria. The relationship between the Commission and the NICtS was formalised in an agreed management statement and financial memorandum, and was informed by relevant Dear Accounting Officer letters.

### The Purpose of the System of Internal Control

The system of internal control was designed to manage risk to a reasonable level rather than to eliminate all risk of failure to achieve policies, aims and objectives. It could

therefore only provide reasonable, and not absolute, assurance of effectiveness. The system of internal control was based on an ongoing process designed to identify and prioritise the risks to the achievement of the Commission's 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 year to 31 March 2009 was 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 HM Treasury risk management guidance.

The Board exercises strategic controls over the operation of the organisation, through a system of corporate governance which includes:-

- a scheme of delegation which delegates decision making within set parameters;
- standing orders; and
- the establishment and operation of a Committee structure including an Audit and Risk Committee.

### 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 and Risk Committee, which

was established in November 2003. The Audit and Risk Committee comprises representatives from the Commission's Board, with senior management, internal audit consultants and the external audit representatives in attendance as required.

### **The Risk and Control Framework**

A risk management policy for the Commission was issued in December 2003 and has been subject to several updates, the latest being May 2007. During 2008/09 the Commission employed suitably qualified external consultants to undertake the internal audit function. During this time, the Commission's internal auditors gave the Commission reasonable assurance in relation to the Commission's risk management framework. The Commission continues to take forward the appropriate processes and policies for risk management, namely:

- 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 departmental and corporate risk registers; and
- detailed 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.

### **Management of Information Risk and Information Assurance**

The Commission continues to monitor and assess its information risks in order to identify and address any weaknesses and ensure improvement of its systems. There were no significant incidents of loss of protected personal data within the Commission in the year 2008/09 which required reporting to the Information Commissioner's Office. A project team established in April 2009 has taken forward the internal systems to ensure compliance with the Cabinet Office Security Policy Framework and the development of best practice. From the work of this Project team an action plan has been developed to address any weaknesses and recommended improvements.

### **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 auditor's in their letters and other reports. I have been advised on the implications of the result of my review of the effectiveness of the system of internal control by the Audit and Risk Committee, and a plan to address weaknesses and ensure continuous improvement of the systems 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 (on initial appointment and again on re-appointment), 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 are 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 is formally reviewed by senior management and reported to the Audit and Risk 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 and Risk Committee to the Board on its programme of activity for the year;
- A check of internal effectiveness of the Audit and Risk Committee against the NAO Audit Committee

Self Assessment Checklist (last undertaken in November 2008);

- Regular reviews by the internal auditors, to standards defined in the Government Internal Audit Manual, including an Annual Assurance Statement that contains independent opinion on the adequacy of the effectiveness of the Commission's systems together with recommendations for improvement;
- Reports at each meeting of the Board from the Audit and Risk Committee Chairman concerning internal control issues; and
- Periodic stewardship statements to the Audit and Risk Committee relating to the Risk Control Framework.

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

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

#### **1 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 over the last numbers of years. In addition, the proposed treatment of provisions within the accounts has been of significant concern to the Commission and has caused major delays. The Commission has put in place measures to address the provisions issue as detailed below. An action plan is in place to ensure that the outstanding Annual Reports and Accounts

are completed so to allow the laying of the 2009/10 accounts prior to 31 March 2011 and the production of the 2010/11 accounts within normal timeframes. This action plan is monitored regularly by the Top Management Team, the Audit and Risk Committee and Sponsor Body.

## 2 Provisions

The lack of adequate legal aid expenditure forecasting information has historically presented the Commission with various control and financial reporting issues. To address this concern the Commission has prioritised provisions and forecasting as key areas to action and has put significant resource into developing processes and systems.

Significant advances have been made in capturing information for provisions and forecasting purposes. A new data extraction model, the Provisions Information Management System (PIMS), was developed during 2009/10 with the aid of an external consultant and the output of the PIMS model is included in the 2008/09 accounts. Key stakeholders have been kept informed as the model has been developed.

The new PIMS model has allowed the Commission to start re-examining the assumptions incorporated into the provisions determination. This work will continue during 2010/11 and the results will again be subject to rigorous testing and validation.

During the implementation of the new provision model in the 2010/11 financial year, it has been identified that the provisions figure in the financial statements will require further adjustment as this work continues. In particular, investigation work on the

validation of the provision balance and the assumptions applied to calculate future provision figures is anticipated to result in the reduction of the lifecycles assumption to reflect the operational experience within each funding category in the estimation of provisions in subsequent accounting periods. The improvements provided by PIMS in relation to the speed that the provisions figure can now be calculated along with the reconciliation and scrutiny afforded by the new system, has resulted in further adjustments to the financial statements.

## 3 Counter Fraud

As Accounting Officer I recognise my responsibility to maintain systems to safeguard public funds and to counter fraud.

Prior to the establishment of the Commission in 2003, there was limited focus on this area, albeit, a Fraud Prevention Officer had been appointed in June 2001. From November 2003, the counter fraud function has been gradually strengthened with the appointment of senior staff with prior experience in this area of work.

The Fraud Prevention and Investigation Unit has been working to improve and document processes and procedures with increased focus on proactive investigations to support those already resulting from specific suspicions raised either inside or outside the Commission.

Running in parallel with ongoing investigations, the unit has also focused on developing the Commission's counter fraud policy which is constantly under review, including major updates in 2006 and again in March 2009. The strategy document developed from the 2009 review was approved by the Commission and is

in the process of further refinement during 2010. Throughout these reviews, lessons learnt are applied to countering fraud both before and after it is detected.

During 2010/11 the need for a strategic review of Counter Fraud operations has been identified in the Business Plan. This review will include an examination of relationships with other relevant government bodies and agencies to communicate and share information to counter fraud. In addition the Counter Fraud Policy and Response Plan will be reviewed and a Counter Fraud Strategy will be further developed. The Commission is taking part in the National Fraud Initiative and will use the results from this exercise to target its focus and resources within its counter fraud activities.

In November 2010, the Commission, under the provisions of Managing Public Money- Northern Ireland, Annex 4.7.8, notified its Sponsor of a potential fraud against the Legal Aid Fund. An action plan is being drawn up to address any issues arising from this case. Any lessons learned will also be used in the development of the Counter Fraud Strategy.

#### **4 Statutory Charge and Exemptions**

The Legal Aid (General) Regulations (Northern Ireland) 1965 contains provisions for exemptions from the statutory charge system in certain circumstances, including matrimonial cases. A statutory charge system exists whereby if someone gains or keeps money or property with the help of legal aid in a civil case, they may have to repay all or some of their legal costs out of that money or property - if their costs are not recovered from their opponent. Historically, the Commission has treated transfers of both money and property in these cases as being exempt from

the statutory charge. However legal opinion was received in 2009/10 which questioned the interpretation of the Regulations.

In view of the legal opinions received, the Commission has considered how to address this issue for past, current and future cases. Various options have been considered but the preferred option was to implement the necessary changes from a fixed date for all new cases going forward, and not to back date the charge for either past or current cases. Amendments to the legislation have been enacted which have set 1 April 2010 as the effective implementation date.

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

A number of policies and procedures required formal documentation or review and update. Much has been done to date to address this matter; however it remains under review as several areas continue to be a cause for concern and are being actively prioritised and addressed by management.

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 ongoing development of the quality management system and maintenance of certification to the ISO9001-2008 quality standard.

- **Risk management**

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

achievement 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; and
- production of an organisational change management bulletin.

- **Specifically work has been progressed on the following;**

- progressive implementation of a risk management and business assurance framework;
- clarification and regularisation of inherited policies and staff terms and conditions; and
- increased emphasis on fraud awareness through appointment of dedicated counter fraud staff.

### **Internal Audit Reports and Annual Assurance**

In accordance within the Internal Audit Plan for 2008/09 the Internal Auditors conducted a number of audit reviews and from this work provided an assurance rating in relation to

the controls in place and the weaknesses identified. The overall assurance provided for the period was “limited” assurance. In particular the assignments which were assigned a limited audit assurance include the following systems;

- Debt recovery process
- Corporate governance
- Project and programme management

An action plan was put into place to address the priority recommendations.

Throughout 2009/10 substantial effort has been input by senior managers to address the issues identified. The internal auditors as part of their audit plan for 2009/10 followed up on the issues raised in the 2008/09 audits and based on this work and the other reports provided for that year, have provided a “satisfactory” overall assurance in their draft Annual Assurance report for 2009/10.

### **6 Landscape Review**

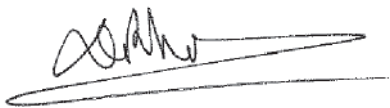
The Commission received the Landscape Review report in the final quarter of the financial year 2007/08. A detailed Action Plan was prepared to address the recommendations in the review and throughout 2008/09 the recommendations were kept under review and reported to the Board on a regular basis. An Internal Audit review at July 2010, identified that an increased level of Board involvement was required in taking the agreed actions from the Landscape Review forward.

## 7 Procurement procedures

During 2010/11 the Commission has been working to improve its systems and processes around the development and approval of Business cases as well as the storage and retention of the requisite documentation. Part of this work involves reviewing procurement procedures and updating the contracts register together with the necessary documentation supporting it.

### Conclusion

The Commission has an action plan in place to address each of the issues raised within the Statement of Internal Control. While demonstrable progress has been made in dealing with each individual issue, it is recognised that further work is required. This stream of work has been given the necessary prioritisation, with action plans being monitored closely, both by the Commissioners and the Top Management Team. The Commission is committed to bringing to a satisfactory conclusion the issues raised.



**Paul Andrews**

Chief Executive  
10 February 2011

## The Certificate of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Northern Ireland Legal Services Commission Legal Aid Funds for the year ended 31 March 2009 under the Access to Justice (Northern Ireland) Order 2003. These comprise the Income and Expenditure Account, the Balance Sheet, the Cash Flow Statement and the related notes. These financial statements have been prepared under the accounting policies set out within them.

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

The Northern Ireland Legal Services Commission and Chief Executive, as Accounting Officer, are responsible for preparing 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. These responsibilities are set out in the Statement of the Northern Ireland Legal Services Commission and Chief Executive's Responsibilities.

My responsibility is to audit the financial statements in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the financial statements give a true and fair view and whether 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. I report to you whether, in my

opinion, the information which comprises the Chief Executive's Report and the Management Commentary, included in the Annual Report, is consistent with the financial statements. I also report 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.

In addition, I report to you if the Northern Ireland Legal Services Commission has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury is not disclosed.

I review whether the Statement on Internal Control reflects the Northern Ireland Legal Services Commission's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Northern Ireland Legal Services Commission's corporate governance procedures or its risk and control procedures.

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 report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

### **Basis of audit opinions**

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination,

## The Certificate of the Comptroller and Auditor General to the Houses of Parliament

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 judgments made by the Northern Ireland Legal Services Commission and Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Northern Ireland Legal Services 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 fraud or error, 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 also evaluated the overall adequacy of the presentation of information in the financial statements.

The evidence available to me was limited because the Commission were unable to provide sufficient evidence to enable me to conclude that Legal Aid expenditure was not fraudulently claimed. There were no additional audit procedures I could undertake to provide me with assurance as to the level of regularity of this expenditure. The scope of my audit was therefore limited in this respect and I am not able to form an opinion on 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.

### Opinions

#### **Adverse opinion arising from a disagreement with the application of accounting policy**

Provisions have been made in the financial statements for the costs of Legal Aid cases incurred up to the end of the financial year. However in applying the accounting policy for Legal Aid provisions, weaknesses in the model used to calculate provisions have resulted in an overstatement of between £8.9 million and £21.6 million in provisions at 31 March 2009 (recorded at £115.5 million within the financial statements) and a similar level of error remains in the provision at 31 March 2008.

In view of the effect of the errors arising from the application of the accounting policy on legal aid 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 2009 and of the deficit and cash flows for the year 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

Notwithstanding my adverse opinion on the financial statements, in my opinion the information which comprises the Chief Executive's Report and the Management Commentary, included within the Annual Report is consistent with the financial statements.

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### Qualified opinion on Regularity due to a limitation of scope

In my opinion, 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.

### Report

Details of these qualifications are included in my Report on pages 84 to 86.

### Amyas C E Morse

Comptroller and Auditor General  
National Audit Office  
157 - 197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

18 March 2011



## Income and Expenditure Account for Grant for the Year Ended 31 March 2009

		<b>2008/09</b>	<b>2007-08</b>
	<b>Note</b>	<b>£'000</b>	<b>£'000</b>
<b>Income</b>			
Other operating income	2	1,189	999
		<u>1,189</u>	<u>999</u>
<b>Expenditure</b>			
Operating expenditure	3	75,052	75,311
Other expenditure	4	231	312
		<u>75,283</u>	<u>75,623</u>
<b>Deficit before interest</b>		<u>(74,094)</u>	<u>(74,624)</u>
Interest receivable and similar income	5	26	13
Notional cost of capital	6	4,169	3,729
<b>Deficit for the year</b>		<u>(69,899)</u>	<u>(70,882)</u>
Reversal of notional cost of capital		(4,169)	(3,729)
<b>Deficit for the year excluding notional cost of capital</b>		<u>(74,068)</u>	<u>(74,611)</u>

All income and expenditure is derived from continuing operations.

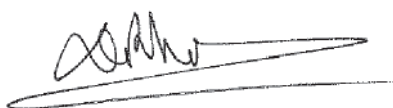
There are no gains and losses other than those recognised in the Income and Expenditure Account.

The notes on pages 42 to 56 form part of these accounts.

## Balance Sheet for Grant as at 31 March 2009

		<b>31 March 2009</b>	<b>Restated 31 March 2008</b>
	<b>Note</b>	<b>£'000</b>	<b>£'000</b>
<b>Current assets</b>			
Debtors	7	1,220	951
Cash at bank and in hand	9	78	2,226
		<u>1,298</u>	<u>3,177</u>
<b>Creditors: amounts falling due within one year</b>			
	10	(1,981)	(629)
<b>Net current (liabilities)/assets</b>		<u>(683)</u>	<u>2,548</u>
Provisions for liabilities and charges	11	(115,459)	(124,644)
<b>Total assets less total liabilities</b>		<u>(116,142)</u>	<u>(122,096)</u>
<b>Financed by:</b>			
<b>Capital and reserves</b>			
General fund	13	<u>(116,142)</u>	<u>(122,096)</u>

The notes on pages 42 to 56 form part of these accounts.



**Paul Andrews**  
Chief Executive  
10 February 2011

## Cash Flow Statement for Grant for the Year Ended 31 March 2009

		<b>2008/09</b>	<b>2007-08</b>
	<b>Note</b>	<b>£'000</b>	<b>£'000</b>
<b>Operating activities</b>			
Net cash outflow from continuing operating activities	14	<u>(82,170)</u>	<u>(71,546)</u>
<b>Net cash outflow before financing</b>		<b>(82,170)</b>	<b>(71,546)</b>
<b>Financing</b>			
Transfer of Grant	13	80,022	73,735
<b>(Decrease)/Increase in cash during the year</b>		<u><b>(2,148)</b></u>	<u><b>2,189</b></u>

The notes on pages 42 to 56 form part of these accounts.

## Notes to the Grant Account for the Year Ended 31 March 2009

### 1. Statement of Accounting Policies

#### Basis of preparation

The financial statements have been prepared in accordance with the 2008-09 Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in FReM follow UK generally accepted accounting practice for companies (UK GAAP) to the extent that it is meaningful and appropriate to the public sector. Where FReM 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.

#### Prior year adjustment

New software, the Provisions Information Management System, has been developed and applied by the Commission to calculate provision balances from 1 April 2008. The technique now used to estimate the provisions balance for civil legal aid, which recognises that not all certificates issued will result in a claim on the legal aid fund, and for criminal legal aid, which recognises that individual certificates may result in more than one claim on the legal aid fund, are now applied to live certificates only, as the new software can identify and remove all closed, withdrawn or rejected certificates.

As a result, a prior year adjustment has been made in respect of the calculation of provisions as at 31 March 2008. This represents a correction of a fundamental error in prior years. The impact of this resulted in an overall adjustment of £15,104k to the closing balance at 31 March 2008. These changes are set out in the table below;

#### Analysis of adjustments in restating the 2007/08 provisions figures

	Civil £'000	Criminal £'000	Total £'000
Closing provisions balances at 31 March 2008	25,215	84,325	<b>109,540</b>
Creation adjustments	5,437	(11,051)	<b>(5,614)</b>
No bills adjustments	20,999	5,722	<b>26,721</b>
Certificate to report ratio adjustments	-	(23,212)	<b>(23,212)</b>
Work-in-progress released adjustments	(314)	17,523	<b>17,209</b>
Restated provisions balances at 01 April 2008	<b>51,337</b>	<b>73,307</b>	<b>124,644</b>

**a) Accounting conventions**

The financial statements of the Commission have been prepared under the historical cost convention.

**b) Grant Income recognition**

Government grant income received for civil and criminal legal aid funding is accounted for in the year in which it is received.

Grant income comprises of grants drawn from the NICtS.

Grant income is treated as financing as it is a contribution from a “controlling party” used to finance activities and expenditure which support the statutory and other objectives of the Commission. It is credited to the general fund reserve.

**c) Other Income**

Other income comprises contributions receivable from funded clients. Other income also includes amounts receivable from funded clients and others for costs, and where appropriate, damages awarded. Other income is accrued and accounted for in the period in which it is earned in the income and expenditure account.

**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.

**g) Provisions**

The Commission recognises provisions for obligations 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, for work completed at the year end but not yet billed. Expenditure relating to the creation of provisions is charged to the income and expenditure account in the year in which the obligation arises.

**h) Commitments**

The Commission recognises that there is a continuing obligation to fund cases past the balance sheet date but the amount will only be known on the future outcome of each case.

#### **i) 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.

#### **j) Going concern**

The Commission is a statutory body established under the AJO 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 DoJ as voted on by the NIA.

#### **k) 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 15).

#### **l) International Financial Reporting Standards adoption**

The Commission is preparing for the move to International Financial and Reporting Standards (IFRS) and it is anticipated that the 2009/10 accounts will be IFRS compliant. There is no impact on the Grant account from the implementation of IFRS reporting. The principle area which it is anticipated will be impacted by the introduction of IFRS reporting is employee related benefits.

**2. Other operating income**

	<b>2008-2009</b> <b>£'000</b>	<b>2007-2008</b> <b>£'000</b>
Contributions from assisted persons	591	469
Costs recovered	570	471
Damages retained	28	59
	<u><b>1,189</b></u>	<u><b>999</b></u>

**3. Operating expenditure**

	<b>2008-2009</b> <b>£'000</b>	<b>2007-2008</b> <b>£'000</b>
Solicitors' charges, counsel fees and disbursements	74,872	75,131
Immigration and asylum grant funding	180	180
	<u><b>75,052</b></u>	<u><b>75,311</b></u>

#### 4. Other expenditure

	Note	2008-2009 £'000	2007-2008 £'000
Debt written off and movement in doubtful debt provision	8	231	312
		<u>231</u>	<u>312</u>

#### 5. Interest receivable

		2008-2009 £'000	2007-2008 £'000
Bank interest receivable		26	13
		<u>26</u>	<u>13</u>

#### 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% pa of the average capital employed by the Commission during the year, 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 Legal Aid Fund has net liabilities a credit applies.



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

**7(a) Analysis by type**

	<b>Note</b>	<b>31 March 2009 £'000</b>	<b>31 March 2008 £'000</b>
Debtors			
- costs		1,534	1,352
- contributions		1,128	996
- other		<u>65</u>	<u>40</u>
		2,727	2,388
Doubtful debt provision	8	(1,532)	(1,482)
Prepayments		25	45
		<u><b>1,220</b></u>	<u><b>951</b></u>

**7(b) Intra-Government balances**

Balances with bodies external to government		1,220	951
		<u><b>1,220</b></u>	<u><b>951</b></u>

## 8. Doubtful debt provision

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
As at 1 April 2008	(1,482)	(1,225)
Doubtful debts written off	201	63
Doubtful debts written off subsequently recovered	(20)	(8)
Charge to the income and expenditure account	(231)	(312)
As at 31 March 2009	<u>(1,532)</u>	<u>(1,482)</u>

## 9. Cash at bank and in hand

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
Cash at bank	78	2,226
	<u>78</u>	<u>2,226</u>

## 10. Creditors: Amount falling due within one year

### 10(a) Analysis by type

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
Amounts due to solicitors, counsel and advice agencies	(1,956)	(629)
Other	(25)	-
	<u>(1,981)</u>	<u>(629)</u>

**10(b) Intra-Government balances**

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
Balances with central government bodies	(25)	(-)
Balances with bodies external to government	(1,956)	(629)
	<u><b>(1,981)</b></u>	<u><b>(629)</b></u>

**11. Provision for Liabilities and Charges**

	<b>Civil Legal Services</b> <b>£'000</b>	<b>Criminal Defence</b> <b>£'000</b>	<b>Total</b> <b>£'000</b>
As at 1 April 2008 (Restated)	(51,337)	(73,307)	(124,644)
Additions and increases to provision	(50,127)	(75,192)	(125,319)
Amounts used in the year	32,704	51,353	84,057
Unused amounts reversed in year	17,767	32,680	50,447
As at 31 March 2009	<u><b>(50,993)</b></u>	<u><b>(64,466)</b></u>	<u><b>(115,459)</b></u>

**12. Commitments**

The Commission recognises that there is a continuing obligation to fund cases past the balance sheet date. It is estimated that this commitment is in the order of £41m (restated as £40m at 31 March 2008).

### 13. Movement on general fund

	Note	31 March 2009 £'000	Restated 31 March 2008 £'000
Opening balance		(122,096)	(106,116)
Prior year adjustment	1	-	(15,104)
Net expenditure for year		(74,068)	(74,611)
Grant income		80,022	73,735
Closing balance		<u>(116,142)</u>	<u>(122,096)</u>

### 14. Notes to cash flow statement

#### (i) Reconciliation of net cost of operations to net cash flow from continuing operating activities

	31 March 2009 £'000	Restated 31 March 2008 £'000
Deficit for period	(69,899)	(70,882)
Credit in respect of notional costs	(4,169)	(3,729)
(Increase) in debtors	(269)	(38)
Increase/(decrease) in creditors	1,352	(3,437)
(Decrease)/increase in provisions	(9,185)	21,644
Prior year adjustment	-	(15,104)
	<u>(82,170)</u>	<u>(71,546)</u>

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

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
Cash at bank and in hand 1 April	2,226	37
Cash at bank and in hand 31 March	78	2,226
<b>Net movement in funds</b>	<u><b>(2,148)</b></u>	<u><b>2,189</b></u>

**15. Third party funds**

Awards for damages to funded clients may be required by the Commission to offset any liability to the Legal Aid Fund. The Commission places these funds on deposit until the liability to the Fund, if any, is determined. Any remaining balance of the damages awarded is refunded once the liability to the Fund has been settled. The amounts retained to cover any shortfall to the Fund are recorded in income as 'Damages retained'.

The movement on these third party funds for the 12 months ended 31 March 2009 was as follows:

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
Balance at 1 April 2008	133	206
Received for the year	603	669
	<u>736</u>	<u>875</u>
Less:		
Sums repaid to assisted persons	(559)	(665)
Damages retained	(27)	(77)
Balance at 31 March 2009	<u><b>150</b></u>	<u><b>133</b></u>

## 16. Summary of losses and special payments

### Losses

There were 219 cases written off during the year totalling £201k and 40 recoveries totalling £20k in respect of amounts previously written off.

### Statutory Charge Losses

A statutory charge system exists whereby if someone gains or keeps money or property with the help of legal aid in a civil case, they may have to repay all or some of their legal costs out of that money or property – if their costs are not recovered from their opponent. Historically, the Commission has treated transfers of both money and property in these cases as being exempt from the statutory charge. However, the Commission received legal opinion which questioned this interpretation of the Regulations. In view of the legal opinions received, the Commission considered how to address this issue for past, current and future cases. Various options were considered with the preferred option being to implement the necessary changes from a fixed date for all new cases going forward and not to back date the charge for either past or current cases. Following consultation with stakeholders the charge was implemented from 1 April 2010.

Under the new procedure “In any case where a legal aid certificate has been granted by the Commission on or after 01/04/2010, the Commission will apply the statutory charge to any property kept or gained by the assisted person in ancillary relief proceedings unless the assisted person can satisfy the Commission that the property should be treated as exempt from the statutory charge under Regulation 17(9)(a)(ii)

of the Legal Aid (General) Regulations (Northern Ireland) 1965”.

### Special Payment

In March 2009 a consolatory payment of £500 was made after the Parliamentary Commissioner for Administration completed an investigation into a complaint against the Commission’s handling of a legal aid application and had decided that maladministration had occurred. The compensatory payment was approved by the Commission’s Board.

## 17. Events after the balance sheet date

On 12 April 2010, justice functions in Northern Ireland were devolved to the DoJ and NIA. From this date, the lead policy responsibility for the Commission transferred from the NICTS to the DoJ.

There were no events after the balance sheet date requiring an adjustment to the financial statements.

The financial statements were authorised by the Accounting Officer to be issued on the same date as they were certified by the C&AG.

## 18. Related party transactions

Prior to 12 April 2010 the Commission was a non-departmental public body sponsored by the NICTS. The NICTS was regarded as a related party. During the reporting period the Commission had various material transactions with NICTS.

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 or decisions on policy or financial matters where a conflict of interest arises.

During the year ended 31 March 2009 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 below. 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 below.

The figures below relate to the transactions in respect of funded 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 April 2008 to 31 March 2009 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 2008/09 but not yet billed.

**Mr. Les Allamby** is a Commissioner and is also Director of the Law Centre (NI). His nephew, Mr 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. A total of £180,000 was paid to the Law Centre during 2008/09, of which £159,750 was paid out of the Grant account.

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 2008/09 was £34,083.

No payments were made to Mr Tannahill during 2008/09.

**Mr. Miceal McCoy** is a Commissioner. His brother-in-law, Mr Gerry Grainger is a barrister who undertakes legal aid casework.

No payments were made to Mr Grainger during 2008/09.

**Ms. Fiona Donnelly** is a Commissioner and solicitor with Fiona Donnelly Solicitors.

Fiona Donnelly Solicitors received legal aid payments of £133 during 2008/09.

**Mr. Joseph Donnelly** is a Commissioner and solicitor with Anderson Agnew and Company solicitors.

His cousins, Mr Damien Agnew and Mr Brendan Agnew, are partners in Anderson, Agnew & Co solicitors. Anderson Agnew and Co received legal aid payments during 2008/09 of £9,529.

His cousin Mr Seamus Agnew is a partner in Agnew Andress solicitors. Agnew Andress solicitors received legal aid payments during 2008/09 of £374.

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

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.

## **19. 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 was financed by a grant received from the NICtS. 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



	<b>Total</b>	<b>Floating- Rate Financial Assets</b>	<b>Fixed- Rate Financial Assets</b>	<b>Non- Interest Bearing Financial Assets</b>	<b>Weighted- Average Interest rate</b>	<b>Weighted- Average Period for which Rate is Fixed</b>	<b>Weighted- Average Period until Maturity</b>
	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>	<b>%</b>	<b>Years</b>	<b>Years</b>
<b>Gross Financial Assets</b>							
Currency							
Sterling							
<b>At 31 March 2009</b>	<b>78</b>	<b>-</b>	<b>58</b>	<b>20</b>	<b>-</b>	<b>-</b>	<b>Note a</b>
At 31 March 2008	2,226	-	2,213	13	-	-	Note a

Note a - the Commission's non interest bearing and fixed-rate 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 2009.

	<b>Book value</b>	<b>Fair value</b>
	<b>£'000</b>	<b>£'000</b>

### Primary financial instruments

#### Financial assets:

Cash at bank	78	78
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## Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I certify that I have audited the financial statements of the Northern Ireland Legal Services Commission for the year ended 31 March 2009 under the Access to Justice (Northern Ireland) Order 2003. These comprise the Income and Expenditure Account, the Balance Sheet, the Cash Flow Statement and Statement of Recognised Gains and Losses and the related notes. These financial statements have been prepared under the accounting policies set out within them. I have also audited the information in the Remuneration Report that is described in that report as having been audited.

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

The Northern Ireland Legal Services Commission and Chief Executive, as Accounting Officer, are responsible for preparing the Annual Report, the Remuneration Report and 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. These responsibilities are set out in the Statement of the Northern Ireland Legal Services Commission and Chief Executive's Responsibilities.

My responsibility is to audit the financial statements and the part of the Remuneration Report to be audited in accordance with relevant legal and regulatory requirements, and with International Standards on Auditing (UK and Ireland).

I report to you my opinion as to whether the Grant in Aid financial statements give a true and fair view and whether the financial statements and the part of the Remuneration Report to be audited 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. I report to you whether, in my opinion, the information, which comprises the Foreword, Management Commentary and the Operating and Financial Review, included in the Annual Report, is consistent with the financial statements. I also report 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.

In addition, I report to you if the Northern Ireland Legal Services Commission has not kept proper accounting records, if I have not received all the information and explanations I require for my audit, or if information specified by HM Treasury regarding remuneration and other transactions is not disclosed.

I review whether the Statement on Internal Control reflects the Northern Ireland Legal Services Commission's compliance with HM Treasury's guidance, and I report if it does not. I am not required to consider whether this statement covers all risks and controls, or form an opinion on the effectiveness of the Northern Ireland Legal Services Commission's corporate governance procedures or its risk and control procedures.

## Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament

I read the other information contained in the Annual Report and consider whether it is consistent with the audited financial statements. This other information comprises the unaudited part of the Remuneration Report. I consider the implications for my report if I become aware of any apparent misstatements or material inconsistencies with the financial statements. My responsibilities do not extend to any other information.

### Basis of audit opinions

I conducted my audit in accordance with International Standards on Auditing (UK and Ireland) issued by the Auditing Practices Board. My audit includes examination, on a test basis, of evidence relevant to the amounts, disclosures and regularity of financial transactions included in the financial statements and the part of the Remuneration Report to be audited. It also includes an assessment of the significant estimates and judgments made by the Northern Ireland Legal Services Commission and Accounting Officer in the preparation of the financial statements, and of whether the accounting policies are most appropriate to the Northern Ireland Legal Services 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 and the part of the Remuneration Report to be audited are free from material misstatement, whether caused by fraud or error, 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 also evaluated the overall adequacy of the presentation of information in the financial statements and the part of the Remuneration Report to be audited.

### Opinions

In my opinion:

- the financial statements give a true and fair view, 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, of the state of the Northern Ireland Legal Services Commission Grant in Aid as at 31 March 2009 and of its deficit and cash flows for the year then ended;
- the financial statements and the part of the Remuneration Report to be audited 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
- information, which comprises the Foreword, Management Commentary and the Operating and Financial Review, included within the Annual Report, is consistent with the financial statements.

## **Certificate and Report of the Comptroller and Auditor General to the Houses of Parliament**

### **Opinion on Regularity**

In my opinion, 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.

### **Report**

I have no observations to make on these financial statements.

### **Amyas C E Morse**

Comptroller and Auditor General  
National Audit Office  
157 - 197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

18 March 2011

## Income and Expenditure Account for Grant in Aid for the Year Ended 31 March 2009

	Note	2008-09 £'000	2007-08 £'000
<b>Operating expenditure</b>			
Staff costs	2	4,536	4,285
Other operating costs	4	1,935	1,918
Depreciation and amortisation	8(a), 8(b)	258	322
Notional charges	7	515	500
<b>Total operating expenditure</b>		<b><u>(7,244)</u></b>	<b><u>(7,025)</u></b>
Net return on pension scheme	3	59	38
Notional cost of capital	7	19	24
Interest receivable	6	<u>3</u>	<u>3</u>
<b>Deficit for the year</b>		<b>(7,163)</b>	<b>(6,960)</b>
Reversal of notional charges		496	476
<b>Deficit for the year excluding notional charges</b>		<b><u>(6,667)</u></b>	<b><u>(6,484)</u></b>

All income and expenditure is derived from continuing operations.

The notes on pages 64 to 83 form part of these accounts.

## Statement of Recognised Gains and Losses for the Grant in Aid for the Year Ended 31 March 2009

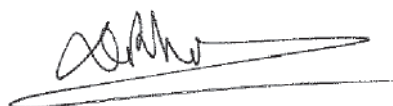
	<b>Note</b>	<b>2008-09 £'000</b>	<b>2007-08 £'000</b>
Unrealised surplus on revaluation of fixed assets	13	15	20
Actuarial (loss)/gain on pension scheme	3	(1,861)	2,150
<b>Recognised (losses)/gain for the year</b>		<b><u>(1,846)</u></b>	<b><u>2,170</u></b>

The notes on pages 64 to 83 form part of these accounts.

## Balance Sheet for the Grant in Aid as at 31 March 2009

	Note	31 March 2009 £'000	31 March 2008 £'000
<b>Fixed assets</b>			
Tangible assets	8(b)	601	755
Intangible assets	8(a)	13	76
		<u>614</u>	<u>831</u>
<b>Current assets</b>			
Debtors	9	210	152
Cash at bank and in hand	10	46	146
		256	298
<b>Creditors:</b> amounts falling due within one year	11	(674)	(1,049)
<b>Net current liabilities</b>		<u>(418)</u>	<u>(751)</u>
<b>Pension (liability) / asset</b>	3(b)	1	143
<b>Total assets less current liabilities</b>		<u>197</u>	<u>223</u>
<b>Provisions for liabilities and charges</b>			
Pension provision	12	(1,526)	-
<b>Total assets less total liabilities</b>		<u>(1,329)</u>	<u>223</u>
<b>Capital and reserves</b>			
Revaluation reserve	13	63	59
General fund	14	(1,392)	164
<b>Total capital and reserves</b>		<u>(1,329)</u>	<u>223</u>

The notes on pages 64 to 83 form part of these accounts.



**Paul Andrews**

Chief Executive

10 February 2011



## Cash Flow Statement for Grant in Aid for the Year Ended 31 March 2009

	Note	2008-09 £'000	2007-08 £'000
<b>Operating activities</b>			
Net cash outflow from continuing operating activities	15 (i)	(7,028)	(5,993)
<b>Capital expenditure:</b>			
Payments to acquire fixed assets	15(iii)	<u>(33)</u>	<u>(78)</u>
		(7,061)	(6,071)
<b>Financing</b>			
Grant in Aid	14	6,961	6,126
<b>(Decrease)/Increase in cash for the year</b>		<u>(100)</u>	<u>55</u>

The notes on pages 64 to 83 form part of these accounts.

## Notes to the Accounts for the Year Ended 31 March 2009

### 1. Statement of Accounting Policies

The financial statements have been prepared in accordance with the 2008-09 Government Financial Reporting Manual (FReM) issued by HM Treasury. The accounting policies contained in FReM follow UK generally accepted accounting practice for companies (UK GAAP), to the extent that it is meaningful and appropriate to the public sector. Where FReM 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 Conventions

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) Tangible and Intangible Fixed Assets

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. Surpluses and deficits arising on revaluation are taken to the revaluation reserve. Permanent reductions in the value of fixed assets are charged to income and expenditure account.

#### c) Depreciation

Tangible and intangible 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 normally in the following ranges;

Fixtures and Fittings	5-10 Years
Computer Hardware	5 Years
Computer Software	3 Years

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

#### 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**

Other operating income comprises receipts authorised by the NICtS to be treated as income. Income is accrued and accounted for in the period in which it is earned in the income and expenditure account.

**f) Recognition of Grant in Aid**

Grant in aid received for revenue expenditure is treated as financing as it is a contribution from a “controlling party” used to finance its activities and expenditure which supports the statutory and other objectives of the Commission. It is credited to the general fund reserve. Capital grant in aid is received to finance fixed assets in general and is also credited to the general fund reserve.

**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 as 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 Occupational Scheme (NILGOSC), a ‘multi-employer’ pension scheme with approximately 65,000 members. Membership of the scheme is optional for Commission employees.

The scheme is a defined benefit scheme and the underlying assets and liabilities are disclosed in the balance sheet. The difference between the market value of the scheme’s assets and the actuarially assessed present value of the scheme’s liabilities, calculated using the projected unit credit method, is disclosed as a liability on the balance sheet.

The amount charged to the Income and Expenditure account is the actuarially determined cost of pension benefits promised to employees earned during the year plus any benefit improvements granted to members during the year and consists of the current service cost (included within staff costs) and net return on pension assets (shown on the income and expenditure account). The asset value of the scheme as at 31 March 2009 is at bid value as required under FRS 17.

Additional contributions are made by the Commission on behalf of employees which effectively increases the employer’s contributions from 15% to 19.5%.

Any difference between the expected return on assets and that actually achieved, and any changes in the liabilities due to changes in assumptions or because actual experience during the year was different to that assumed, are recognised as actuarial gains and losses in the statement of recognised gains and losses.

The Commission also sponsored the Law Society of Northern Ireland Retirement Benefits Scheme administered by NPI, (NPI Scheme), a defined benefit arrangement and privately 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. The remaining active members transferred to NILGOSC with effect from 1 May 2004. This scheme is in the process of being wound-up.

Both schemes provide benefits based on pensionable salary.

#### **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.

#### **k) Going Concern**

The Commission is a statutory body established under the AJO 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 DoJ as voted on by the NIA.

#### **l) International Financial Reporting Standards adoption**

The Commission is preparing for the move to International Financial and Reporting Standards (IFRS) and it is anticipated that the 2009/10 accounts will be IFRS compliant. Based on work carried out to date, it is envisaged that the accounts will be adjusted to reflect an accrual under IAS 19 relating to the treatment of employee benefits. Under IAS 19, when an employee has rendered a service to an entity during an accounting period, the entity is required to recognise the undiscounted amount of short-term employee benefits expected to be paid in exchange for that service. Northern Ireland Legal Services Commission Accounts will therefore be adjusted for the recognition of any annual and flexi leave accrued by employees, but not paid in the 2009/10 financial year.

## 2. Staff costs

The average number of employees during the year including the Chief Executive, Chairman, Commissioners and Committee Members was;

	2008/09			2007/08
	Total	Permanently employed staff	Seconded-in staff	Total
No. of employees	141	130	11	131
Commissioners	10	10	-	10
Committee Members	37	37	-	56
<b>Total Staff Numbers</b>	<b>188</b>	<b>177</b>	<b>11</b>	<b>197</b>

The costs incurred in respect of these employees were:

	2008/09			2007/08
	Total £'000	Permanently employed staff £'000	Seconded-in staff £'000	Total £'000
Wages and salaries	3,785	3,325	460	3,448
Social Security costs	386	365	21	227
Other pension costs:				
Current service costs	309	309	-	426
Pension contributions	62	-	62	184
<b>Sub-total</b>	<b>4,542</b>	<b>3,999</b>	<b>543</b>	<b>4,285</b>
Less recoveries in respect of outward secondments	(6)	-	(6)	-
<b>Total staff costs</b>	<b>4,536</b>	<b>3,999</b>	<b>537</b>	<b>4,285</b>

### 3. 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 senior management team and employees are provided through the Northern Ireland Local Government Officers' Superannuation Committee Scheme (the NILGOSC Scheme).

Membership of the scheme is optional for employees, but in practice most staff participate in this pension provision arrangement.

NILGOSC is a multi employer defined benefit scheme. It is a funded scheme which provides benefits on a 'final salary' basis at a normal retirement age of 65 years. Benefits accrue at the rate of 1/80th of pensionable salary for each year of service. In addition, a lump sum equivalent to three years pension is payable on retirement.

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.

Staff participating in the scheme contribute 1.5% of pensionable earnings and the Commission's contribution during the year was 19.5%. The employer rate set by NILGOSC was 15% (additional 4.5% paid on behalf of employees).

The Commission's contributions are affected by a surplus or deficit in the scheme. The employer's rate for the year commencing 1 April 2009 increased to 16% (effectively 20.5% for the Commission). 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.

For the year ended 31 March 2009 actual employer contributions of £571K were paid to the NILGOSC Scheme.

The latest formal actuarial valuation of the scheme was carried out at 31 March 2007, with the next formal valuation due as at 31 March 2010. The liability and cost calculations are as follows:

**The major assumptions used by the actuary were:**

	<b>2008-09</b>	<b>2007-08</b>
Inflation/pension increase	3.1%	3.6%
Rate of increase in pensionable salaries	4.6%	5.1%
Expected return on assets	6.5%	7.3%
Discount rate	6.9%	6.9%

**The assets in the scheme and expected rates of return were:**

	<b>Expected return at 31 March 2009 % pa</b>	<b>Assets at 31 March 2009 £'000</b>	<b>Expected Return at 31 March 2008 % pa</b>	<b>Assets at 31 March 2008 £'000</b>
Equities	7.0%	5,841	7.7%	7,815
Bonds	5.4%	1,120	5.7%	1,149
Property	4.9%	560	5.7%	805
Cash	4.0%	480	4.8%	153
<b>Total</b>	<b><u>6.4%</u></b>	<b><u>8,001</u></b>	<b><u>7.3%</u></b>	<b><u>9,922</u></b>

The above asset values as at 31 March 2009 are at bid value, as required under FRS 17. In previous accounting periods the value of assets have been reported at mid market value. Prior year accounts at 31 March 2008 have not been restated, as the difference is not deemed to be material.

<b>Net pension (liability) / asset</b>	<b>2008-09 £'000</b>	<b>2007-08 £'000</b>
Estimated employer assets	8,001	9,922
Present value of scheme liabilities	(9,399)	(9,780)
<b>Net pension (liability) / asset</b>	<b>(1,398)</b>	<b>142</b>

**Analysis of amount charged to Income and Expenditure Account:**

	<b>2008-2009 £'000</b>	<b>2007-2008 £'000</b>
Current service cost	309	426
Past service cost	-	-
Curtailments and Settlements	-	-
<b>Total operating charge</b>	<b>309</b>	<b>426</b>

**Analysis of net return on pension scheme:**

	<b>2008-2009 £'000</b>	<b>2007-2008 £'000</b>
Expected return on employer assets	741	594
Interest on pension scheme liabilities	(682)	(556)
<b>Net return</b>	<b>59</b>	<b>38</b>



**Analysis of amount recognised in Statement of Recognised Gains and Losses (SRGL):**

	<b>2008-09</b> <b>£'000</b>	<b>2007-08</b> <b>£'000</b>
Actual return less expected return on pension scheme assets	(3,100)	(895)
Experience gains/(losses) arising on the scheme liabilities	1,272	391
Additional actuarial loss on movement to bid value	(41)	-
Changes in financial assumptions underlying the present value of the scheme assets/(liabilities)	8	2,654
<b>Actuarial (loss) / gain recognised in SRGL</b>	<b>(1,861)</b>	<b>2,150</b>

**Movement in surplus/(deficit) during the year**

	<b>2008-09</b> <b>£'000</b>	<b>2007-08</b> <b>£'000</b>
Surplus / (Deficit) at beginning of the year	142	(1,944)
Additional actuarial loss on movement to bid value	(41)	-
Current service cost	(309)	(426)
Employer contributions	571	324
Net return on assets	59	38
Actuarial (loss)/ gain	(1,820)	2,150
<b>(Deficit)/ surplus at end of year</b>	<b>(1,398)</b>	<b>142</b>

## History of experience gains and losses

	<b>2008-09</b>	<b>2007-08</b>
	<b>£'000</b>	<b>£'000</b>
Difference between the expected and actual return on assets	(3,100)	(895)
Value of assets	8,001	9,922
<b>Percentage of assets</b>	<b>(38.7%)</b>	<b>(9.0%)</b>
Experience gains / (losses) on liabilities	-	391
Total present value of liabilities	9,399	9,780
<b>Percentage of the total present value of liabilities</b>	<b>-</b>	<b>(4.0%)</b>
Actuarial gains / (losses) recognised in SRGL	(1,820)	2,150
Total present value of liabilities	9,399	9,780
<b>Percentage of the total present value of liabilities</b>	<b>(19.4%)</b>	<b>22.0%</b>

### b) Law Society Northern Ireland Local Government Officers' Superannuation Committee Scheme

The Commission sponsored the Law Society of Northern Ireland Retirements Benefits Scheme (NPI Scheme), a defined benefit arrangement. Active members of the scheme were transferred to the NILGOSC scheme with effect from 1 May 2004.

A full actuarial valuation was carried out at 1 August 2002 and updated to 31 March 2007 on a projected unit method by a qualified independent actuary. The scheme is closed to new entrants and there are no active members. There was a Net Pension Asset of £1k at 31 March 2009.

**4. Other operating costs**

	<b>2008-09</b>	<b>2007-08</b>
	<b>£'000</b>	<b>£'000</b>
Accommodation	319	283
Rentals under operating leases	335	276
Other employee expenses	190	118
IT expenditure	376	334
Legal expenses	19	139
Consultancy expenses	209	261
Committee expenses	36	24
Auditors' remuneration and expenses	70	130
Loss on transfer or disposal	-	1
Permanent diminution	6	9
General	375	343
	<b><u>1,935</u></b>	<b><u>1,918</u></b>

The audit fee in 2007-08 of £130k includes a £65k charge in respect of prior years.

## 5. 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 year in which the lease expires.

	<b>1 Year £'000</b>	<b>2-5 Years £'000</b>	<b>5+ Years £'000</b>
Land and buildings	-	-	375
Other - Equipment	-	14	-
	<u><b>0</b></u>	<u><b>14</b></u>	<u><b>375</b></u>

## 6. Interest receivable

	<b>2008-09 £'000</b>	<b>2007-08 £'000</b>
Bank interest receivable	3	3
	<u><b>3</b></u>	<u><b>3</b></u>

## 7. Notional and other non-cash costs

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

	<b>2008-09 £'000</b>	<b>2007-08 £'000</b>
Cost of capital	(19)	(24)
Social Security Agency	456	443
Taxing Master Office	59	57
	<u><b>496</b></u>	<u><b>476</b></u>

**8. Fixed assets****8 (a) Intangible fixed assets**

	<b>Computer Software</b>
<b>Cost</b>	<b>£'000</b>
At 1 April 2008	577
Additions	-
Disposals	-
Revaluations	(41)
<b>At 31 March 2009</b>	<b>536</b>
<b>Amortisation</b>	
At 1 April 2008	(501)
Charge in year	(63)
Disposals	-
Revaluations	41
<b>At 31 March 2009</b>	<b>(523)</b>
<b>Net book value 31 March 2009</b>	<b>13</b>
<b>Net book value 31 March 2008</b>	<b>76</b>

**8. Fixed assets****8 (b) Tangible fixed assets**

	<b>Fixtures and Fittings</b>	<b>Computer Hardware</b>	<b>Total</b>
<b>Cost</b>	<b>£'000</b>	<b>£'000</b>	<b>£'000</b>
At 1 April 2008	1,120	633	1,753
Additions	5	27	32
Disposals	-	-	-
Revaluations	34	(46)	(12)
<b>At 31 March 2009</b>	<b>1,159</b>	<b>614</b>	<b>1,773</b>
<b>Depreciation</b>			
At 1 April 2008	(503)	(495)	(998)
Charge in year	(113)	(82)	(195)
Disposals	-	-	-
Revaluations	(19)	40	21
<b>At 31 March 2009</b>	<b>(635)</b>	<b>(537)</b>	<b>(1,172)</b>
<b>Net book value 31 March 2009</b>	<b>524</b>	<b>77</b>	<b>601</b>
<b>Net book value 31 March 2008</b>	<b>617</b>	<b>138</b>	<b>755</b>

**9. Debtors: amounts falling due within one year****9 (a) Analysis by type**

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
Debtors	25	-
Prepayments	185	152
	<u><b>210</b></u>	<u><b>152</b></u>

**9 (b) Intra-Government balances**

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
Balances with other central government bodies	25	-
Balances with bodies external to government	185	152
	<u><b>210</b></u>	<u><b>152</b></u>

**10 Cash at bank and in hand**

	<b>31 March 2009</b> <b>£'000</b>	<b>31 March 2008</b> <b>£'000</b>
Cash at bank	46	146
	<u><b>46</b></u>	<u><b>146</b></u>

## 11 Creditors: amounts falling due within one year

### 11 (a) Analysis by type

	31 March 2009 £'000	31 March 2008 £'000
Creditors	(122)	(15)
Accruals	(552)	(1,034)
	<u>(674)</u>	<u>(1,049)</u>

### 11 (b) Intra-Government balances

	31 March 2009 £'000	31 March 2008 £'000
Balances with central government bodies	(49)	-
Balances with bodies external to government	(625)	(1,049)
	<u>(674)</u>	<u>(1,049)</u>

## 12 Provision for liabilities and charges

	Pension Provision £'000	Other Provisions £'000	Total £'000
Opening balance	142	-	142
Utilised in year	571	-	571
Increase in provision	(2,111)	(128)	(2,239)
<b>As at 31 March 2009</b>	<u><b>(1,398)</b></u>	<u><b>(128)</b></u>	<u><b>(1,526)</b></u>

- Pension Provision: full details of this provision can be found at note 3.
- Other Provision: the other provision relates to a probable national insurance liability.



**13 Movement on revaluation reserve**

	Note	31 March 2009 £'000	31 March 2008 £'000
As at 1 April 2008		59	45
Unrealised surplus on revaluation of fixed assets	8(b)	15	20
Transfer of realised element of depreciation		(11)	(6)
<b>As at 31 March 2009</b>		<b><u>63</u></b>	<b><u>59</u></b>

**14 Movement on general fund**

	31 March 2009 £'000	31 March 2008 £'000
As at 1 April 2008	164	(1,634)
Grant-in-Aid from NICTS	6,961	6,126
Net expenditure for the year	(6,667)	(6,484)
Actuarial (loss)/gain on pension scheme	(1,861)	2,150
Transfer of realised element of depreciation	11	6
<b>As at 31 March 2009</b>	<b><u>(1,392)</u></b>	<b><u>164</u></b>

**15 Notes to the cashflow statement****(i) Reconciliation of the net cost of operations to the net cash flow from continuing operating activities**

	2008-09 £'000	2007-08 £'000
Deficit for period	(7,163)	(6,960)
Credit in respect of notional costs	496	476
Loss on transfer of fixed asset	-	1
Depreciation	258	322
Permanent diminution in value of fixed assets	6	9
(Increase) in debtors	(58)	(64)
(Decrease)/increase in creditors	(374)	159
Decrease/(increase) in provision - excluding actuarial gain/loss	(193)	64
<b>Net cash outflow from continuing operating activities</b>	<b><u>(7,028)</u></b>	<b><u>(5,993)</u></b>

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

	<b>2008-09</b> <b>£'000</b>	<b>2007-08</b> <b>£'000</b>
Cash at bank and in hand 1 April 2008	146	91
Cash at bank and in hand 31 March 2009	46	146
<b>Net movement in funds</b>	<b>(100)</b>	<b>55</b>

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

	<b>2008-09</b> <b>£'000</b>	<b>2007-08</b> <b>£'000</b>
Purchase of Fixed Assets	32	77
Opening capital creditors	1	2
Closing capital creditors	-	(1)
Opening capital debtors	-	-
Closing capital debtors	-	-
<b>Net cash outflow from investing activities</b>	<b>33</b>	<b>78</b>

**16. Contingent liabilities**

The Commission had no contingent liabilities as at 31 March 2009.

**17. Capital commitments**

The Commission has no capital commitments as at 31 March 2009.

**18. Other financial commitments**

At 30 September 2006 the seven year managed service contract with Fujitsu Services Ltd in respect of software support, implementation and upgrades associated with the Phoenix software system ended. Following a tender process under the terms of the Commission's financial memorandum, British Telecom PLC (BT) was awarded a two year contract for the provision of these

services, effective from 1 October 2006. This contract was subsequently extended for one year. As at 31 March 2009 the Commission has a future expenditure commitment of £119K in respect of this contract. The contract with BT was further extended to 2010. A new tender process is being undertaken in 2010.

**19. Events after the balance sheet date**

On 12 April 2010, justice functions in Northern Ireland were devolved to the DOJ and NIA. From this date, the lead policy responsibility for the Commission transferred from the NICTS to the DOJ.

The Government announced in the Emergency Budget on 22 June 2010 that future pension increases in public sector schemes will be linked to the Consumer Price Index (CPI) rather than the Retail

Price Index (RPI). Traditionally the actuarial method of calculating the NILGOSC scheme has used RPI. The change to CPI, which is traditionally lower than RPI, will be reflected in the accounting treatment in the 2010-11 financial statements.

There were no events after the balance sheet date requiring an adjustment to the financial statements.

The financial statements were authorised by the Accounting Officer to be issued on the same date as they were certified by the C&AG.

## 20. Summary of Losses and special payments

There were no losses or special payments relating to the Grant in Aid account during the year which required disclosure.

## 21. Related party transactions

Throughout 2008/09 the Commission was a non-departmental public body sponsored by the NICtS. The NICtS is regarded as a related party with which the Commission has had various material transactions during the year.

**Mr. Les Allamby** is a Commissioner and is also 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. A total of £180,000 was paid to the Law Centre during 2008/09, of which £20,250 was paid out of the Grant in Aid account.

**Ms Fiona Donnelly** is a Commissioner and is also a solicitor with Fiona Donnelly Solicitors. She is also remunerated for her work in the Institute of Professional Legal Studies at Queens University Belfast. The Commission made payments of £845 during 2008/09 to Queens University Belfast in relation to tuition fees, subscriptions and seminars.

**Ms. Breidge Gadd** is a member of the Board of Commissioners. She is also a columnist with the Irish News newspaper. During the year 2008/09, through its advertising agent the Commission placed advertisements in various newspapers including the Irish News.

**Mrs Gillian McGaughey** is a Commissioner and is also remunerated for her work in the Institute of Professional Legal Studies at Queens University Belfast.

No other member of the senior management has undertaken any material transactions with the administrative functions of the Commission during 2008/09.

## 22. 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.

### Interest rate risk

The Commission is not exposed to significant interest rate risks.

### Liquidity risk

The Commission was financed by a grant received from the NICTS in the year of account. As such, it is not exposed to significant liquidity risks.

### Interest rate profile

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

	Total	Floating-Rate Financial Assets	Fixed-Rate Financial Assets	Non- Interest Bearing Financial Assets	Weighted- Average Interest rate	Weighted- Average Period for which Rate is Fixed	Weighted- Average Period until Maturity
	£'000	£'000	£'000	£'000	%	Years	Years
<b>Gross financial assets</b>							
Sterling	46		40	6	-	-	Note a
<b>At 31 March 2009</b>	<b>46</b>		<b>40</b>	<b>6</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Gross financial assets</b>							
Sterling	146	-	141	5	-	-	Note a
<b>At 31 March 2008</b>	<b>146</b>	<b>-</b>	<b>-141</b>	<b>5</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 2009.

	<b>Book value £’000</b>	<b>Fair value £’000</b>
<b>Primary financial instruments</b>		
<b>Financial assets:</b>		
Cash at bank	<u>46</u>	<u>46</u>

## Report of the Comptroller and Auditor General to the Houses of Parliament

### 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.
2. The NILSC prepares accounts for Legal Aid funds (the Grant Account) and for its grant-in-aid funded operations. The report relates solely to the Grant Account.

### Purpose of the Report

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.
4. The purpose of this report is to explain the background to my qualification of the Legal Aid Grant Account for the year ended 31 March 2009.

### Qualification of my audit opinions on the Legal Aid Grant Account

5. I have qualified my opinion on the Grant Account in the 2008-09 financial statements because of the following issues:
  - disagreement with the NILSC's application of its accounting policy for provisions the impact of which is so material and pervasive to the financial statements that I have concluded that they do not give a true and fair view; and
  - a limitation in scope arising from a lack of sufficient evidence to support the regular nature of legal aid grant expenditure.

### Adverse opinion on current year financial statements arising from a disagreement with the NILSC's application of its accounting policy for provisions

6. I provided an adverse audit opinion on the 2007-08 Legal Aid Grant Account due to a disagreement on NILSC's application of its accounting policy for provisions which resulted in pervasive errors in the financial statements. The NILSC sought to address the disagreement by developing a new model, the Provisions Information Management System (PIMS) to more accurately estimate the liability which is described in Note 1 to the financial statements.

## Report of the Comptroller and Auditor General to the Houses of Parliament

7. In accordance with Financial Reporting Standard (FRS) 3 "Reporting Financial Performance", NILSC restated its provisions balance at 1 April 2008 as the adjustments represented the correction of a fundamental error within the 2007-08 financial statements. As the NILSC is focused on addressing the underlying issues with the provisions model for the future, it did not calculate a corresponding figure for 31 March 2007 and therefore the NILSC did not restate the charge for Legal Aid operating expenditure in 2007-08, as required by FRS 3.
8. While PIMS addressed some of the issues I previously reported on, my audit of the 2008-09 financial statements identified further pervasive errors arising from NILSC's application of its revised accounting policy:
- the provisions model used by NILSC did not use the most up to date information available and by subsequently applying the data, the NILSC has estimated that it resulted in an understatement of provisions of £3.2million at 31 March 2009;
  - in determining the average case duration, NILSC based its estimation model on worst-case scenarios which were not reflective of the normal trend of case life cycles. NILSC has evaluated the impact of this based upon the current high level classifications it uses and calculated that this resulted in an overstatement of provisions at 31 March 2009 of between £7.9 million and £21.6 million. The NILSC believes that it is not practicable for it to further refine these estimates, but NILSC does not expect it to be at the extreme of these estimates; and
  - using post balance sheet date information, NILSC has estimated that its provision for very high cost cases was overstated by approximately £4.2 million.
9. I have, therefore, concluded that the misstatement arising from NILSC's application of its accounting policy resulted in an overstatement of between £8.9 million and £21.6 million in the provision at 31 March 2009. A similar level of error remains in the provision at 31 March 2008. I consider that the impact of the uncertainty in the potential misstatements is so material and pervasive that the financial statements do not give a true and fair view.
- Limitation in scope arising from a lack of evidence to support the regular nature of legal aid grant expenditure**
10. 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. 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.

## Report of the Comptroller and Auditor General to the Houses of Parliament

11. 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. The NILSC do not have an estimate of the likely scale of fraud. 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. These weaknesses were not addressed in 2008-09.

12. A small Counter Fraud Unit operates at the NILSC. The unit continues to be more reactive than proactive and is not able to 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.

13. 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.

14. 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

15. My reports on the 2003-04, 2004-05, 2005-06, 2006-07 and 2007-08 financial statements have noted significant weaknesses in controls and delays in the preparation of the Annual Report and Accounts. The introduction of the PIMS model has substantially reduced the time NILSC needs to calculate legal aid provisions. The NILSC anticipates it will finalise the Annual Report and Accounts for 2009-10 by March 2011 and thereafter will be producing Annual Report and Accounts on a more timely basis.

### Amyas C E Morse

Comptroller and Auditor General  
National Audit Office  
157 - 197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

18 March 2011



An executive summary of this document is also available in an accessible format if required i.e. Braille, large print, audio cassette or in a minority ethnic language.

Published April 2011



Northern Ireland Legal Services Commission  
2nd Floor, Waterfront Plaza  
8 Laganbank Road, Mays Meadow  
Belfast BT1 3BN

Telephone 028 9040 8888

Email: [accesstojustice@nilsc.org.uk](mailto:accesstojustice@nilsc.org.uk)  
[www.nilsc.org.uk](http://www.nilsc.org.uk)



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