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| **PCNI PLENARY MEETING – 20th NOVEMBER 2013 – LINUM CHAMBERS** |
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| **Present Commissioners:** | Ms Christine Glenn | Mrs Elsbeth Rea  |
|  | Mrs Anne Grimes | Mr Paul Mageean |
|  | Mr Jeremy Mills | Mrs Ruth Laird |
|  | Dr Shelagh Mary Rea | Mr Tom Craig |
|  | Mr Stephen Leach | Dr Adrian Grounds |
|  | Ms Mollie Weatheritt | Mr Timothy Thorne |
|  | Mrs Alexandra Delimata | Mr James Scholes |
|  | Mr John Gibbons | Mrs Maura Hutchinson |
|  | Mrs Anne Fenton | Mr Derek Rodgers |
|  | Mrs Elaine Peel | Mr Norman Lockie |
|  | Mrs Marian Killen | Dr Pat McGrath |
|  | Dr Micaela Greenwood | Mrs Debbie McQueirns |
|  | Prof John Jackson | Mr Stephen Murphy |
|  | Miss Linda McHugh | Mr Emmet Murray |
|  | Judge Tom Burgess (PM) | Ms Clodach McGrory |
|  | Mr Noel Pheonix | Ms Mary Barnish |
|  | Mrs Siobhan Keating | Ms Claire Hunt |
|  | Dr Jackie Withers | Mr Niall Small |
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| **Guest Speakers:** | Prof Nicky Padfield | Ms Roisin Muldoon (PBNI) |
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| **Secretariat:** | Mrs Moya Cushley | Mrs Kerry McIlwaine |
|  | Mrs Karen Weir | Mrs Joanne Williams |
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| **Apologies:** | Mr Nigel Stone | Mrs Elsbeth Rea |
|  | Prof Peter Hepper | Judge Tracy Doherty |
|  | Mrs Debbie Hill |  |
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| **Absent:** | Dr Damien McCullagh | Dr Duncan Morrow. |
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| The following is a summary record of the Plenary of the Parole Commissioners covered on 20 November 2013. |
| ***Item 1*** | ***Chief Commissioner’s Introductions*** |
| The Chief Commissioner welcomed everyone to the meeting and thanked them for their attendance. |
| ***Item 2:*** | ***Psychological Formulation*** |
| Mr Emmet Murray spoke to a presentation on ‘Psychological Formulation’ - a core skill for psychologists which is often simply defined as a hypothesis about a person’s difficulties which links psychological theory with practice and guides the intervention.Emmet spoke about the quality of formulation and the principles of formulation. He went on to describe two models of formulation (a general model that can be applied to the formulation and an example of a model used in formulation of violence). Emmet asked the Commissioners if they had any examples that they wanted to share. Ms Debbie McQueirns explained that she has asked for the formulation in oral hearing because it has not been provided in advance. The response was that the psychologists at the hearing look at you quizzically. How do you challenge at an oral hearing if the witness doesn’t understand the question? Is this a training issue? Is there an expectation that Prison psychologists focus on specific areas i.e. intervention. Emmett went on to explain that the background and knowledge of the psychologist (report writers) is also an issue, there is the perception that clinical psychologist should not dabble in forensic psychology. This is often what you see in the reports submitted. Another problem area highlighted was that some clinical psychologists fail to identify the baseline to identify if someone is lying, analysis can generally only give an 80% accuracy rate. Emmet gave an example of a prisoner who was released on the information he provided to the lead clinician even though he was a skilled serial killer who went on to kill another eight people. This example showed that the therapeutic relationship can often blind people to the level of risk. This is a justifiable concern.The second area of concern is the preparation for the interview. It is important to note that the psychologist may not have access to the dossier which can lead to a flawed formulation. They need to ask for access to victim statements and it is their responsibility to ensure that they have read and taken account of them. Commissioners need to put this back to psychologists to remind them that it is their responsibility to be fully informed.The third point - the standardisation of reports – these are areas which need to be challenged. This is an indication of mass produced reports. What you don’t want from a formulation is a focus on the **recent** past. Commissioners need to ensure that psychologists completing the report has also considered of the distant past. If you see a report that is radically different from other psychological reports you need to ensure that the psychologist is able to pinpoint in a credible way the differences and the reasons for the differences.Emmet spoke to the Commissioner about a study and provided them with a formulation which he had constructed for the purpose of this event.  |

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| ***Item 3:*** | ***Recalls*** |
| Ms Roisin Muldoon from the Probation Board thanked the Commissioners for the opportunity to speak at the Plenary.Roisin gave a presentation to the Commissioners. The presentation (findings of a recent audit report on recall) reviewed the following issues:* As at 11 September there were in custody;
	+ 639 DCS cases;
	+ 126 ECS cases;
	+ 21 ICS cases.
* At 13 August 2013 the following numbers had been released on licence:
	+ 1240 offenders;
	+ 45 ECS;
	+ 1195 DCS.
* Provided Commissioners with the recall metrics as at 26th September 2013; which showed a steady increase in the number of recalls since the introduction of the Criminal Justice Order. It also showed that 34% of DCS cases were recalled and more alarmingly and more worrying is that 71% of ECS cases were recalled.
* PBNI Audit –recall reports are completed by PBNI when an offender fails to comply with licence requirements and/or there is an escalation in risk. This audit considered 32 recall reports and focussed primarily on the quality of the recall reports. Further audit was conducted on 3 May 2013, which considered 52 recall applications (22 unsuccessful applications and 30 randomly selected successful recall applications).

Roisin provided the Commissioners with a breakdown of the results of the most recent audit. This allowed the PBNI to focus on areas of poor practice and areas of best practice which could be developed further. It also allowed PBNI to look at the quantitative and qualitative analysis to help develop training needs for Probation Officers.The PBNI audit has been shared with Senior Management Team and Operation Teams. This has been tabled on their team’s agendas. It is important that Commissioners realise that PBNI are committed to improving the practice of their staff and that further events are planned for training. Roisin was delighted that two Commissioners will be joining PBNI at the proposed training events and will be working closely with Commissioners to ensure that the training is appropriate.  |

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| ***Item 3:*** | ***Research*** |
| Professor Nicky Padfield presented her findings on the research that is available.She discussed the following areas in detail:* She suggested that PCNI need to consider their research requirements;
* Examples of the research completed – i.e. when someone dies in prison there is lots of anxious scrutiny and investigation; however when someone dies under probation supervision there tends to be little institutional or academic interest.
* The literature on decision making – how people who make decision actually make their decisions, this is a subject that could be studied with interest – would be useful when considering dossier development. Does this suffer because we don’t get a lot of feedback on our decisions? Usually it is only the bad results get a level of scrutiny;
* Risk and uncertainly – risk of false positives (will hit the press) and the risk of false negatives (won’t hit the press);
* Studying Parole Boards – very limited research, little bit more on American research, however the context is very different and therefore not a good comparative. Research on Trebilock and Weaver is probably the best at the moment. There is good evidence on the value of oral evidence. In addition, she spoke about the difficult position that Parole Commissioners face given that they have to make their decisions based on the information made available to them.
* The reality of prisoners’ experiences; - understanding recall 2011 is a worthwhile read – Her evidence looks at the reasoning behind reoffending, lots of issues about the further offending which often does not result in further convictions;
* The literature on desistance – she reminded everyone that desistance is difficult and is not a one-off event, if you can slow down reoffending it can be considered a success; and
* Legal issues ­– how hard law works in practice. Relevance of ***Osborn*** *v the Parole Board;* ***Booth*** *–v- Parole Board; in the matter of an application of James Clyde* ***Reilly*** *for Judicial Review [2013] UKSC61 and R (****Sturnham****) – v- Parole Board [2013] UKSC 47.*

The Chief Commissioner thanked Nicky for her presentation and insight into the research available. |

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| ***Item 4:*** | ***Chief Commissioners Update*** |
| The Chief Commissioner gave a presentation to the Commissioners. The presentation updated the Commissioners on the following issues:* Year to date:
	+ Strong Performance;
	+ Increase in workload – increased by 35% this year;
	+ Recruitment of new Commissioners – Chief Commissioner introduced the three new Commissioners, Claire Hunt, Jackie Withers, and Siobhan Keating;
	+ CJINI follow-up report – the draft report suggested developing a framework agreement/MoU between our organisation and NICTS;
	+ PBNI Recall Workshop, also considering doing some work with PBNI on Oral Hearings;
	+ Conference in Dublin - Parole Board in RoI is a non-statutory body that does not make decisions, they make recommendations to the Minister (on paper only – no oral hearings). Chief Commissioner presented at their conference in Dublin last month. They are very keen to hold a pan Ireland event which we hope to participate in next year;
	+ Prison week conference. – Chief Commissioner spoke at an event last week in England – Chief Commissioner was concerned that Britain legislation poorly thought through and poorly resourced, they tend to look at the American practices instead of focussing on Europe. Britain is looking to keep only high risk with probation, low and medium risk will go to the private sector. Situation is very bleak in Britain; and
	+ Relationship with NICTS – still a lack of clarity.
* Current affairs:
	+ Developing new framework agreement(s) with NICTs;
	+ Schedule 1 – hoping to move as soon as possible;
	+ Osborn, Booth and Reilly - right to an oral hearing – new policy required – asked Moya to do a cost benefit analysis on this situation;
	+ Dossier Project – lot of work done by Linda McHugh;
	+ Justice Committee – original invitation asked Chief Commissioner to go at the time of a high profile case. Chief Commissioner will email Commissioners after the event;
	+ Research opportunities – meeting with Prof Nicky Padfield and the Department tomorrow morning to discuss potential projects for research;
	+ JR challenge – one delay and the majority of cases on the right to oral hearings. The Commissioners have never had a JR challenge on the decision only on the process;
	+ Protocol for handling protected information – policy in the pack; and
	+ Communications strategy –for discussion later today.
* The future:
	+ Impact of direction of travel of courts;
	+ Balance of panel – v- single commissioner work;
	+ Our own risk assessment tool;
	+ Agree our own targets – we are a bit vulnerable in this area – should we look at publishing our own targets?
	+ Better research based practice; and
	+ International dimension APAP – Chief Commissioner has been asked to be the international representative on their training committee.
* Issues to **discuss** in breakout groups:
	+ Future direction of PCNI – schedule 1 status;
	+ Single Commissioner work in the future;
	+ Consistency of practice in running oral hearings;
	+ Framework agreement with NICTS; and
	+ Should all Commissioners do all types of casework?
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| ***Item 5:*** | ***Commissioners’ Business*** |
| The reports below were discussed in detail:* **MoU** - Dr Adrian Grounds spoke to the Commissioners about the draft MoU.

BackgroundThe document evolved from a meeting between the Chief Commissioner and the DoJ in June. Problems had arisen after the publication of a controversial decision. NICTS had asked why they had not been briefed in advance of the decision to release. NICTS did not agree that they should not have had access to our decisions/cases. Mr David Lavery suggested that this document should be drawn up to show the roles and responsibilities of each party.There is a need to seek the views of the Commissioners before this draft goes to NICTs and the DoJ. It was felt that the exercise to develop such a documents would help to clarify the roles, responsibilities and accountabilities of each party. This document will be endorsed by the Chief Commissioner and all Commissioners.Adrian took the Commissioner through the draft document.He closed by advising that any changes to this document must be cleared through the Chief Commissioner.Adrian sought the views of the Commissioners on the draft.The Commissioners discussed the document. Mrs Ruth Laird felt that, as the document stands, it does not sufficiently reflect the Brooke decision, specifically in relation to finances – needs strengthened. Para 22 - should be articulated that recruitment should be a joint role with the Department. Judge Tom Burgess endorsed the document. Mr Stephen Leach advised that Ministers do not like surprises. He felt that we should be giving advance notice of decisions to the Department. The Chief Commissioner disagreed with Steven. She felt that it could damage us fundamentally. Adrian clarified by saying – “what if you shared it with the Department and received some feedback?” “What would you do?” You could not amend the document. Tom Burgess expressed that in a court environment they would never share the decisions in advance. He concluded that it would be entirely wrong to share the decision rule 22 does not allow us to share.The MoU was endorsed by the Chief Commissioner and the Commissioners.* **Dossier Restructure**

Ms Linda McHugh spoke to a paper on Dossier re-structure. What will happen now is the document will be amended further and sent back to us for comments. We need to find a mechanism for commenting on this document. It is intended to go live with the ‘new style’ dossier in January.Mr Derek Rodgers asked if there was any potential for the dossier to be provided electronically. Not at this stage. Most Commissioners prefer a paper dossier.The issue of PDF and Word documents was discussed. Commissioners prefer word documents so that they can cut and paste. Mrs McIlwaine advised that the documents must be PDF documents simply because they are not our documents. Making them PDF protects the author, as the document cannot be changed. Chief Commissioner agreed to look at this issue further. Mr Steven Murphy asked if there was any progress on copies of sentencing remarks. Mrs Joanne Williams advised that NIPS cannot afford to have the CD’s transcribed and she has asked the NICTS to look at the encryption on the cd’s so that they can be played on any system without downloading software as they are public documents. Ms Debbie McQueirns raised the issue of ’cut and paste’ in dossiers. She asked if this issue was being addressed. Linda confirmed that this was being discussed further. Still a work in progress and Linda would be grateful for any feedback from Commissioners.* **Guiding Principles and** **Procedures in Confidential Information Cases**

The document was endorsed by Commissioners. Judge Tom Burgess suggested that when taking notes in a case with confidential information it is easier to hand over all the notes to the NIO (open and closed). Mrs Williams advised that she has met with NIPS to start a similar process to cover the other categories under Rule 9 and reported that NIPS are keen to have a much less onerous process. Once that has been completed she will be having a tri-partite meeting with NIO and NIPS to provide a protocol on those cases where there is a dual pathway.* **Communication Strategy**

The Communication strategy was shared with Commissioners to see if they were happy to sign this off as a final version – endorsed by Commissioners.* **Flow Charts**

Flow charts were originally developed by Mrs Mollie Weatheritt, refined by Mrs Joanne Williams and reviewed by Mr Jeremy Mills. These have been developed for the handbook.  |

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| ***Item 6*** | ***Working Groups and wash-up*** |
| The Commissioners broke up into groups to discuss any issues that they felt appropriate.Commissioners reported back on the following:**Group 1** discussed: * Dossiers, Sub Groups, Oral Hearings and the different methods of chairing – need to be more imposing at hearings.
* Single Commissioners –v- oral hearings – should we ask the prisoner does he want a single commissioner or an oral hearing.
* Need for a budget for library resources.
* Need for a learning and development budget.

**Group 2** discussed:* Single Commissioner –v- oral hearings – need to do an analysis on the number of cases released on single Commissioner.
* Types of casework and should Commissioners opt out – need for Commissioners to participate in a variety of casework, but not all Commissioners can work with a 24 hour turnaround (recall rota) due to other commitments.
* Need to put a general secretariat phone number on mobile phones so that Commissioners can ring back if they miss a call.
* On Oral Hearings – equality within panel.
* Dossiers – need for file dividers.
* Looking forward to new edition of Focus.

**Group 3** discussed:* Article 46(3) cases – should we be doing these as they are not a judicial decision?
* Discussed single Commissioner – v- oral hearing.
* Victim’s issues in dossiers – often reported with no victim issues. Need a document to say that the victim had been contacted and the detail of the contact. – Victims have to ‘opt in’ – this needs to be checked and articulated.

**Group 4** discussed:* If going to look at single Commissioner role then we need to look at all processes not just that of the single Commissioner.
* With regard to panels we need to be more standardised. Preference is that the panel should be running the hearing instead of the parties. Panels need to take more control. If there are inconsistencies in panels there can be potential problems. We need to have a mechanism, how do we monitor inconsistencies?
* We could possibly develop a written good practice guide on how we run hearings.

Chief Commissioner thanked the Commissioners for their attendance and the meeting closed. |

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| **Kerry McIlwaine****Minute-taker** |