

Review of Committee Structure, Reservation of Powers and Scheme of Delegation and Standing Orders

Report to: Board
Date: 3 October 2013
Report by: K. McClure, Head of Legal Services
Report No: B-17-2013
Agenda Item: 15

PURPOSE OF REPORT

To seek the Board's comments on, and if appropriate, approval of, proposed changes the Reservation of Powers and Scheme of Delegation and Standing Orders. The Board is, in addition, invited to consider whether any changes to the current Committee Structure are desirable.

RECOMMENDATIONS

That the Board:

1. Approves the proposals set out in this report, and adopts the redrafted Reservation of Powers and Scheme of Delegation and Standing Orders at Appendices 1 and 2 which give effect to those proposals.
2. Considers the additional matters raised in section 3 of this report and advises as to how it wishes to proceed.

Version Control and Consultation Recording Form

Version	Consultation	Manager	Brief Description of Changes	Date
	Senior Management	(1) ET, IPMs, Registration Manager, Complaints Manager, Comments & Complaints Co-ordinator (2) ET		(1)19/10/12 (2)14/12/12
	Legal Services			
	Resources Directorate	Finance Manager		19/10/12
	Committee Consultation (where appropriate)	(1) (former)Chair, Committee Conveners, Deputy Conveners (2) Chair		(1)23/10/12 (2)29/07/13
	Partnership Forum Consultation (where appropriate)			

Equality Impact Assessment

To be completed when submitting a new or updated policy (guidance, practice or procedure) for approval.

Policy Title:	Committee Structure, Reservation of Powers and Scheme of Delegation and Standing Orders		
Date of Initial Assessment:			
EIA Carried Out	YES <input type="checkbox"/>	NO <input checked="" type="checkbox"/>	
If yes, please attach the accompanying EIA and briefly outline the equality and diversity implications of this policy.			
If no, you are confirming that this policy will have no negative impact on people with a protected characteristic and a full Equality Impact Assessment is not required.	Name: K. McClure Position: Head of Legal Services		
Authorised by Director	Name: A Bruton	Date: 26 September 2013	

Version: 2.0	Status: <i>Final</i>	Date: 26/09/2013
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1.0 BACKGROUND

Corporate Plan references: Outcomes 1,2 and 3 respectively

‘The quality of services in Scotland is improving.’

‘People understand the quality of service they should expect and have a good experience of services centred on their needs, rights and risks.’

‘The Care Inspectorate performs effectively and efficiently as an independent, scrutiny and improvement body and works well in partnership with other bodies.’

The Care Inspectorate’s Board approved the current Reservation of Powers and Scheme of Delegation and Standing Orders at its inaugural meeting on 7 April 2011. Paragraph 1 of the Scheme of delegation provides for review after one year of operation. A review commenced in 2012, but was delayed in anticipation of the appointment of a new Chair. It was not considered appropriate to review arrangements for the conduct of Board and Committee business until the new Chair had been appointed, had taken part in at least a full cycle of Board and Committee meetings and had thereafter had the opportunity to contribute to this review.

2.0 CONSULTATION

Comments of the Reservation of Powers and Scheme of Delegation and Standing Orders were sought from a range of managers, and the Comments and Complaints Co-ordinator by email. Comments were also sought by email from the Chair and Committee Conveners and Deputy Conveners. The Head of Legal Services attended at the Strategy & Performance Committee’s discussion of its Terms of Reference on 23 October 2012. There has been consultation with the Executive Team and with the Chair since his appointment.

3.0 PROPOSED AMENDMENTS / POSSIBLE CHANGES FOR DISCUSSION

3.1 The proposed amendments are incorporated in Appendices 1 and 2. It is not proposed to discuss each change individually in this covering paper – but the significant changes proposed are detailed in section 4 below. Some changes have been made with a view to improving the wording of the Reservation of Powers and Scheme of Delegation and Standing Orders or to address small typographical errors.

3.2 In addition to the changes suggested in Appendices 1 and 2, the Board is invited to consider whether the continuation of the Strategy and Performance Committee as a Committee of the Board is contributing to the effective and efficient conduct of Board business and whether there is clarity as to the role of that Committee. This proposal has been informed by the discussion at the Strategy & Performance Committee Review on 23 October 2012. Issues which arose included a lack of clarity as to the role of that Committee, a sense that it work was being duplicated by the Board and a lack of specification in relation to its functions.

Version: 2.0	Status: <i>Final</i>	Date: 26/09/2013
--------------	----------------------	------------------

Agenda item 15

Report No:

B-17-2013

It has been suggested that the functions of the Strategy & Performance Committee 'overlapped' with those of the Board – while comparison between the functions of the Strategy & Performance Committee as set out in its Terms of Reference and the statement of matters reserved to the Board do not obviously support that view, it may be justified in terms of the way in which the Board and the Strategy and Performance Committee have operated in practice.

It is suggested that the lack of clarity as to the role and decision-making powers of the Strategy and Performance Committee may arise because as the name of the Committee suggests, its role encompasses, on the face of it, matters which are at the heart of the role of the Board as a whole – namely setting the Care Inspectorate's strategic direction, and scrutinising its performance.

The Board is invited to consider whether the existence of a separate Strategy and Performance Committee having a remit, which appears in name and practice to risk duplicating the work of the Board as a whole, should continue.

- 3.3** If the Board was to decide against having a Strategy and Performance Committee in the future, one consequence of that may be the loss of the opportunity to discuss sensitive issues outwith the public forum of the Board meeting. It is suggested that that is an issue which should be addressed by a number of means – firstly, by careful application of the arrangements for taking agenda items in private at meetings of the Board; secondly by incorporating discussions of a general nature about current or anticipated external developments into Board development sessions and thirdly, by taking advantage of opportunities to circulate relevant documents and comment upon them by email where appropriate.
- 3.4** Some public bodies divide their Board meetings between public and private meetings. There would be no statutory bar to the Care Inspectorate holding some Board meetings in private – although it is suggested that public bodies should aspire to conducting their business in a way which is as open and transparent as possible (subject to careful consideration of the need for some items to be kept confidential)
- 3.5** The terms of reference for Committees have been redrafted with a slight change in emphasis towards giving them more clearly set out decision-making responsibilities, failing which, a role in making recommendations to the Board. This is intended to leave the Board with a clearer role also – in noting decisions properly made by its Committees and in scrutinising and holding the Committees to account for their decision-making.
- 3.6** Were the Board to cease to have a Strategy and Performance Committee, there would be no basis for the continued existence of the Complaints Sub-Committee as a sub-committee of the Strategy and Performance Committee. That issue would most simply be addressed by 'reconstituting' the Committee as a Committee of the Board in its own right, with Terms of reference similar to those of the existing Complaints Sub-Committee. Substantive changes to the Terms of reference would

Version: 2.0	Status: <i>Final</i>	Date: 26/09/2013
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require to be considered alongside the current Complaints Procedure which may require revision to reflect any changes to the name or Terms of Reference of the Committee which considers complaints.

- 3.7** Paragraph 5 of the Standing Orders provides that there shall only be written recording of proceedings at Board meetings, by members or the public or press, and no contemporaneous oral reporting of proceedings without the agreement of the Board. Paragraph 5.1 has been added, to the effect that there should be no photography at Board meetings, without the consent of the Board. The Board is invited to consider its position in relation to contemporaneous reporting of its proceedings via social media using handheld electronic devices – for example, by members of the public or press attending who may wish to report contemporaneously on the proceedings via ‘Twitter’.

While ‘Twitter’ use would appear to be inconsistent with a provision prohibiting contemporaneous oral reporting, arguably, it would be far less disruptive to the proceedings of the Board. Further, it is an expectation (at least on the part of journalists) that ‘Twitter’ use will be permitted almost anywhere and to prohibit it may attract only negative comment – against a background whereby such prohibition is likely only to delay publication of details of the Board’s proceedings for a very short time – i.e. until almost immediately after the conclusion of the meeting concerned.

- 3.8** It has been observed by members on a number of occasions that the process by which Board members are made aware of the proceedings of Committees by having sight of the relevant minutes is cumbersome and can be too slow. The arrangements for the approval and circulation of minutes have been redrawn with the intention of ensuring that members are more rapidly apprised of committee proceedings and decisions.
- 3.8** The current Reservation of Powers and Scheme of Delegation and Standing Orders (the first of which incorporates the Terms of Reference of all current Committees) are attached as Appendices 3 and 4, for comparison purposes.

4.0 SUMMARY OF SIGNIFICANT PROPOSED CHANGES

4.1 Reservation of Powers and Scheme of Delegation

1. References to ‘SCSWIS’ have been substituted with references to ‘the Care Inspectorate’ throughout.

2. Para 1.3.5 – the title of the Deputy Chair has been changed to ‘Vice Chair’, to reflect the terminology used in relation to Committees which may have a ‘vice convener’. The functions of the Vice Chair have been extended so that he or she may deputise for the Chair at a particular meeting or event, or generally during a specified period. Currently the role of Vice Chair is only ‘activated’ if the post of Chair should become vacant, or in the event of extended absence or declared incapacity on the part of the Chair.

Version: 2.0	Status: <i>Final</i>	Date: 26/09/2013
--------------	----------------------	------------------

Agenda item 15

Report No:
B-17-2013

3. Para 1.5.4 - the statement of the functions of the Chief Executive has been updated to better reflect the current Memorandum to Accountable Officers for Other Public Bodies.
4. Para 1.5.6 – the arrangements for circumstances in which a Director or other officer is absent have been redrafted to create greater flexibility in these circumstances by providing for the absent officer’s delegated powers to be exercised by another officer without the need for specific Board approval.
5. Para 2.4.2 – incorporates an additional power whereby the Chair may appoint members to committees or remove them, subject to ratification by the Board at its next full meeting
6. The Terms of Reference of Committees have been redrafted – see section 3 above, and Appendices 1 and 3

4.2 Standing Orders

1. References to ‘SCSWIS’ have been substituted with references to ‘the Care Inspectorate’ throughout.
2. Standing Order 5 –Addition of suggested clause prohibiting photography at Board meetings without consent.
3. Standing Order 7 – Provision for publication of Board papers on the Care Inspectorate website.
4. Standing Order 10 – Provision for the Vice Chair to chair Board meetings as the primary alternative in the absence of the Chair.
5. Standing Order10.1 – Removal of provision requiring deference to the Chair as outmoded. All members are expected to behave respectfully towards colleagues, whether they be the Chair, fellow Board members or officers, in terms of relevant Codes of Conduct.
6. Standing Order 13 - Insertion of ‘(rounded up to a whole number)’ for the avoidance of doubt in calculating two thirds of members present.
7. Standing Order 21 - Insertion of ‘(rounded up to a whole number)’ for the avoidance of doubt in calculating two thirds of members present.
8. Standing Order 23 – Proposed revised arrangements regarding meeting minutes – to allow the faster approval and circulation of minutes, to enable members to maintain up to date knowledge of business which may have been transacted at Board meetings at which they have not been present and at committees of which they are not members / at which they were not present.

Version: 2.0	Status: <i>Final</i>	Date: 26/09/2013
--------------	----------------------	------------------

Agenda item 15

Report No:
B-17-2013

9. Standing Order 25 – Greater specification of the limitations upon publication of minutes – on the basis that it is unlikely that minutes of Complaints Committees which consider individual complaints or of the Remuneration Committee (except in relation to approval of the Care Inspectorate’s Pay Remit) or the Appeals Sub-Committee will ever be appropriate for publication.

10. Standing Order 27 – Deputations – no substantive change – insertion of ‘persons’ so that this Standing Order will now provide that ‘No deputation will exceed three persons in number...’

11. Standing Order 28 - Insertion of additional provision allowing the Board to appoint a Chief Executive when the Chair is not present, so long as the post of Chair is vacant, the Chair is absent for an extended period or has declared an incapacity, and the Vice Chair is present.

12. Standing Order 30 - change to make the position of the Complaints Committee in the absence of its convener consistent with the provisions of the Reservation of Powers and Scheme of Delegation.

13. Standing Order 30 – Clarification of the position of the Chair in relation to the Audit Committee.

5.0 RESOURCE IMPLICATIONS

None.

6.0 BENEFITS FOR PEOPLE WHO USE SERVICES AND THEIR CARERS

It is essential for the fulfilment of all of the Care Inspectorate’s corporate outcomes that its Board and committees and sub-committees function efficiently, that they understand their respective roles and that there are clear and well-understood arrangements in place to enable the Board and its committees to carry out their duties effectively.

7.0 CONCLUSION

The Board is asked to consider and discuss the proposed changes and issues raised and to approve them and / or to give direction as to further work it wishes to be carried out.

LIST OF APPENDICES

Appendix 1 -	Reservation of Powers and Scheme of Delegation
Appendix 2 -	Standing Orders
Appendix 3 -	Reservation of Powers and Scheme of Delegation 2011
Appendix 4	Standing Orders 2011

Version: 2.0	Status: <i>Final</i>	Date: 26/09/2013
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