

**Minutes: Scottish Charity Regulator (OSCR) Board
meeting, 21st February 2024, via MS Teams**



Board Members Present: Marieke Dwarshuis (Chair)
Jill Vickerman (Vice-Chair)
Jessica Wade
Lynn Bradley
Kirsten Howie
Neil MacKay
Robin Strang

OSCR attendance: Maureen Mallon – CEO
Judith Hayhow – Head of Corporate
Martin Tyson – Head of Regulation & Improvement
Senior Manager, Higher Risk Cases & Quality Assurance
Senior Legal Advisor
Senior Manager Digital and Communications
HR & Learning Coordinator
Finance Governance & Business Manager
Senior Manager Policy and Sector Improvement

Private Business		
Item	Area	Action
1	<p>The National Lottery Community Fund Scotland Director and Scotland Chair.</p> <p>There was a presentation around the National Lottery Community Fund Strategy to 2030. A Q&A session followed.</p> <p>The Finance Governance & Business Manager left the meeting</p>	
2, 3&4	<p>Chair's introduction, welcome, declaration of interest, minutes from previous meeting and Action log</p> <p>MD welcomed everyone to the beginning of the formal meeting.</p> <p>Apologies – Bill Maxwell, Board member</p> <p>Declarations of interest – NM noted his employment with a major retail bank (in relation to UK regulators' discussion with UK banks).</p> <p>Minutes of previous meeting – NM questioned the record of the discussion and decision around notifiable events. MD confirmed</p>	

	<p>that she was content with the minutes and that this would be covered again at item 7 of this meeting.</p> <p>Action log – MD advised that she would ask members at the end of the meeting if all of the items listed as “proposed closed” and “closed” can be closed.</p> <p>The open items were then reviewed.</p>	
5.	<p>Chair’s update</p> <p>MD gave an update on her work over the last 2.5 months.</p> <p>CEO recruitment is ongoing and interviews will take place at the end of February. LB asked for confirmation of involvement of Board members in the recruitment of the new CEO. MD confirmed that herself and JV are panel members. MD will provide an update to the Board separate to this meeting.</p> <p>MD is finalising the framework agreement with MT and this will be circulated for information by email.</p> <p>Action – Final version of the Framework Agreement to be circulated for information</p> <p>Mid year 1-2-1s with all Board members have been completed.</p> <p>OSCR has been asked to attend a meeting of the Social Justice and Social Security Committee (SJSSC) of the Scottish Parliament on 20th June. MD welcomed more visibility with parliament. The Board will be active in setting the agenda for this meeting.</p> <p>Action – Board discussion to inform the OSCR input at the SJSSC meeting</p> <p>MD noted that the budget settlement is now confirmed and thanked JH, MM and other colleagues for their work towards this positive outcome.</p>	<p>MD</p> <p>MD</p>
6.	<p>CEO update</p> <p>MM noted that the work around the budget with SG has been useful, they were fully supportive of the business case and funding requirements. JV thanked MM for the significant work regarding budgets and in gaining the ‘letter of assurance’.</p>	

	<p>Engagement with the Charity Law Team Leader, Third Sector Unit, Scottish Government has been going well. The Charity Law Team Leader attended the last all staff day and gave an overview of Third Sector Unit work. Engagement with senior SG colleagues has been more limited due to budgeting priorities and we will arrange to see the team as soon as diaries allow.</p> <p>The initial meeting of the tenants in Compass and Quadrant house with Dundee City Council took place on 10 January 2024. The group discussed what Public Bodies based in the city could be doing. JH is investigating mentoring and volunteering opportunities. The group will meet again in April.</p> <p>MM said she will attend a meeting regarding UK Finance and Banking next week with representatives of banks. To prepare for this MM will meet with the CEOs of the other two UK regulators. NM asked to note that he may have a conflict of interest as he is employed by a bank but is not involved in this issue.</p> <p>LB raised the issues around shortage of auditors for charities, and there was a discussion around a shortage of both independent examiners and auditors for charities. It was noted that discussions have been held with SCVO, TSIs and professional bodies around queries they have received.</p> <p>Action – Provide an update on OSCR’s work to date and future plans in relation to shortages of independent examiners and auditors at a future meeting.</p>	Senior Manager, Higher Risk Cases & Quality Assurance
7.	<p>Cases committee report</p> <p>JV introduced this paper noting it includes the following 4 key areas</p> <ol style="list-style-type: none"> 1. Retiring notifiable events and the discussion around communication of changes, stakeholder engagement and monitoring data. 2. A discussion around whether papers are legally privileged. 3. The note of the last meeting has been shared but is still a draft as not yet agreed by all members. 4. There has been an impressive turnover of difficult cases. We are in a good place with casework however this comes with a warning as there are likely to be staffing changes ahead for the team. <p>MT confirmed that the committee is working towards a way to report on their meetings without data protection issues.</p>	

	<p>The committee are also looking at ways to assess the effect of the retirement of the Notifiable Events regime and have taken note of the feedback gained from Charities Reference Group to be clear about what charities should report and what the changes are, and also about baselining to assess the effects of retiring the regime.</p> <p>On the basis that the engagement with the CRG had provided a sense check, and that the feedback from this will be taken on board, MD confirmed the Board are content that the Notifiable Events regime be retired from 1 April 2024.</p> <p>The Senior Manager, Higher Risk Cases & Quality Assurance gave an update on Glasgow East Women's Aid: their Board are planning to engage a liquidator and they plan to stay on to wind up and support continuity of service provision for the beneficiaries of the charity. The Senior Manager, Higher Risk Cases & Quality Assurance has spoken with the liquidator and confirmed it will depend on legal claims whether the company will be solvent or insolvent. There is an open dialogue with Scottish Women's Aid to help with communications around the situation, which is likely to get some publicity and political interest.</p>	
8.	<p>ARAC update</p> <p>LB introduced this paper. She noted that the TORs have been updated and there were no substantive changes.</p> <p>Financial transaction services are now being delivered by the Care Inspectorate rather than SSSC. JH confirmed she has no concerns around this move.</p> <p>There is a new external audit manager but no change to the firm. LB expects to receive the new external audit planning paper this week or next.</p> <p>MM and LB met with the Director of Internal Audit and Assurance. They noted this was a useful meeting.</p> <p>There were no further questions and MD confirmed the Board accepted the report for assurance.</p>	
9.	<p>2023 Act Implementation Programme Board update</p> <p>MT reported on updates since the Programme Board meeting.</p>	

	<p>The commencement order for the first phase is expected to be laid in parliament on Friday (23 Feb). Once confirmed, communications around where we are and what that means for the sector will be issued. There is no action required by trustees at present, this is for awareness only.</p> <p>Workstreams for 1 April are going well and notifications will be issued to non-engaging and non-submitting charities from that date.</p> <p>There have been promising trustee discussions including those with Scottish Woman's Aid.</p> <p>Planning for the later phases is not where we wanted to be. However, the new interim project manager started on Monday (19 Feb) and is making good progress. He will begin work on a detailed timeline for the second phase of commencements and an update will be given at the next Programme Board meeting.</p> <p>NM asked for an understanding of RAG status against the specific workstreams. He noted the Gantt chart update but pointed out that it is difficult to see whether there is rebaselining. MT confirmed that there had been some adjustments. Adding RAG status was raised at the Programme Board and is being done.</p> <p>Action – RAG status to be included with Programme Board report to Board – main workstreams only.</p> <p>There was a discussion around powers in relation to former trustees and whether this is timebound. It was confirmed it is not expressly timebound, but our treatment needs to be reasonable and practical as the accounting period is 5 years and beyond this would prove difficult.</p> <p>There was a discussion around removal of charities from the register noting that the first charities will be given notice on 1st April. They then have a three-month period to reply and if no contact is received they will be removed. Experience with removing charities from the register using existing powers shows very minimal come back.</p> <p>MT gave an update on the new Engagement Managers. Candidates have been identified and start times and onboarding are being discussed. One of the preferred candidates is already involved in the revitalising trusts project.</p>	<p>MT</p>
--	---	-----------

	<p>The Board discussed getting assurance from the Programme Board of risks to be added to the Corporate Risk Register. It was noted that it would depend on the timings of meetings whether they could be escalated to ARAC via the Board meeting. This is to be discussed with MT, JH, LB, KH and BM and update will be provided at the Board meeting.</p> <p>Action – MT, JH, LB, KH and BM to propose how Programme Board Risks are reflected in the Corporate Risk Register and report back to April Board meeting.</p>	MT/JH
10.	<p>Digital Roadmap</p> <p>The Senior Manager Digital and Communications introduced this item advising that the graphic is a one-page summary of the implementation plan that was shared in November – there are no changes.</p> <p>NM has requested a RAG status for each item and cost savings to assess the benefits.</p> <p>Noting that indicative costs for year 2 (24/25) of implementing the Digital Strategy are included in the draft budget presented at this meeting, the Board requested an indication of indicative costs associated with work in the roadmap for year 3 (25/26).</p> <p>The Board discussed the frequency of reporting on the digital strategy. It was noted that this is an agenda item each November.</p> <p>The board were content to sign off the strategy.</p> <p>Action: Indicative costs for digital roadmap work in 25/26 to be provided</p> <p>Action – RAG status against progress to be included from next update in November</p>	<p>Senior Manager Digital and Communications</p> <p>Senior Manager Digital and Communications</p>
11.	<p>People survey initial readout and plans</p> <p>The HR & Learning Coordinator introduced this item and gave an update on the work since the Civil Service people survey results were received in December. Discussions around the results</p>	

	<p>focusing on learning and development, wellbeing, managing through change and bullying and harassment were held at an ELT away day and an all-staff day.</p> <p>The Board discussed if these were the right areas to focus on asking for more information on bullying and harassment noting it has been highlighted in previous surveys. The HR & Learning Coordinator noted that staff have not formally reported bullying and harassment during the year and that we support staff who may wish to report issues by sharing information and advice on the staff hub.</p> <p>The Board raised concern from the survey around staff not recognising the direction of travel of the Board. The HR & Learning Coordinator noted there are now improvements in the score after a change in the way we communicate with staff including sharing an update after the Board meeting.</p> <p>The HR & Learning Coordinator confirmed that staff discussions in respect of wellbeing had taken place and there was an acknowledgement that wellbeing encompasses more than just work. That said we will continue to prioritise training and coaching to ensure conversations with staff looking at workloads and working through change are consistent and supportive. This will be reflected in the corporate training plan which will also include learning for Board members’.</p> <p>MD – Thanked the HR & Learning Coordinator for a good update</p> <p>Action –Develop and include wording on Board/staff engagement in the 2024–5 Corporate Training Plan.</p> <p>Action – Board members training to be incorporated into the Corporate Training Plan.</p> <p>JW left the meeting</p>	<p>HR & Learning Coordinator</p> <p>HR & Learning Coordinator</p>
12.	<p>Performance Update & Financial Report</p> <p>JH introduced this item noting the overview is in 4 sections some of which had already been covered during the meeting. JH noted that the report now clearly showed alignment of activities to business priorities, as requested by the Board.</p> <p>There was a discussion around Revitalising Trusts and the high proportion of trusts that are professionally managed. It was noted</p>	

	<p>that one bank controls a significant portion of these following mergers after 2008. There are also concerns over the level of fees charged by some firms. We will consider resourcing and prioritisation of this work with Foundation Scotland as part of the operational planning process and will discuss with Foundation Scotland how we may better engage with professionals managing charitable trusts. The Board discussed feedback on The Gathering noting that there appeared to be an appetite to listen to OSCR at the event and discussed what the presence should be in 2024. It was suggested that Board members could attend, and that OSCR should consider taking a marketplace stand. There was a discussion as to whether a decision should be made at an early stage, but it was felt better to wait until there is an outline of the event and costs involved. MD said that she agrees that OSCR should have a presence and the ELT will make the recommendation on how this looks and if Board members should be included.</p> <p>Action – recommendation on OSCR presence at The Gathering 2024 to be brought to the Board once outline and costs of the event known.</p> <p>The Board discussed the People Update focusing on the introduction of the 35-hour working week. Confirmation has now been received from SG that part time staff will have their hours proportionally reduced. There will be an exception to this where staff would suffer detriment as a result of working reduced hours, for example where it would affect benefit entitlement. Board members noted that ELT will discuss the business implications and management of the reduced working week over the next few weeks. It was confirmed the 35-hour working week is not the same as the 4-day working week pilot that is ongoing in other Scottish public bodies – OSCR is not part of this pilot.</p> <p>JH introduced the financial update noting that it has been a difficult year to manage with the scale of unknowns including pay, dilapidations and final budget. The Board discussed whether there should be a systematic approach to variance reporting, with summary of variances. It was noted that historically financial summaries included additional information on variances and agreed that it was sensible to include from now. The Board asked whether costs relating to the new Act should be recorded separately from business as usual.</p> <p>Action – variance narrative to be provided and general format of financial report considered.</p>	<p>Senior Manager Policy and Sector Improvement</p> <p>Finance Governance &</p>
--	--	---

	<p>Action – consideration to be given to including summary of financial information in respect of 2023 Act implementation.</p> <p>JH explained the issues around the lease for OSCR space in Quadrant House. OSCR has a 5-year lease and has chosen to have the lease renewal incentive take the form of a discounted rent each year. Other tenants have a 10-year lease and have taken the full incentive in their first year. We are still awaiting confirmation of the exact charge associated with OSCR's share of the dilapidation charge associated with the end of the previous lease. A survey has been commissioned by the facilities manager and the figure could vary depending on the survey results, impacting on the final outturn position. Once this is known we will have clarity if this is an over or underspend.</p> <p>The Board then looked at the Board Dashboard. MD questioned which of the MOUs have been reviewed. It was agreed that an update would be provided at the next meeting.</p> <p>Action – update on MOUs at next meeting.</p> <p>MD questioned KPI number 13 (The proportion of incoming concerns which are not appropriate to OSCR reduces by 50% (2022–2023 64%)) regarding the 10% reduction in 'not appropriate concerns' and asked if this would be recast next year. MT advised this is reflected in the Business Plan.</p> <p>MD noted that the dashboard is working well now and this has led to fewer questions from the Board.</p>	<p>Business Manager</p> <p>Finance Governance & Business Manager</p> <p>Senior Manager Policy and Sector Improvement</p>
13.	<p>Initial Draft of 2024–25 Business plan and budget</p> <p>The Senior Manager Policy and Sector Improvement joined the meeting.</p> <p>JH introduced this item noting that consideration of business priorities had taken place at the January all staff event, and that consequently all OSCR staff had been involved and engaged in this exercise.</p> <p>Board Members confirmed that the priorities appeared to be correct albeit that there were still a lot of them. MM noted that we are doing more with less but this can't be taken for granted and she will build this into the narrative.</p>	

	<p>Considering specific draft priorities, JV suggested that number 9 and 10 could be combined. JH said that wellbeing has been recorded separately as it is a significant priority, however this will be looked at again.</p> <p>Action – Draft priorities 9 and 10 to be reviewed and possibly combined to make more effective while still having the same commitment.</p> <p>There was a discussion around benchmarking and 2 of the KPIs which had been changed. The ongoing challenge with not applicable concerns was noted. There was a discussion about being more ambitious with the benchmark.</p> <p>Action – Final draft of the business plan to be presented at the April Board meeting for approval.</p> <p>JH noted that the 2024-25 Budget is in effect at a standstill of the 2023-24 level, with additional resources set out in the Act Implementation business plan added. It was noted that recent confirmation of the SG assumptions in respect of the 35-hour working week means that there are no longer concerns about a potential pay cost increase for 24/25. The Board indicated that they were broadly content with the proposed budget split, and it was agreed that a final version be presented at the April meeting. (including information about digital projects, and Act implementation costs).</p> <p>Action – update of the budget figures to be presented at the April Board meeting for approval.</p> <p>LB suggested that budgets should be rounded to £500 rather than to the exact figure.</p> <p>Action –Consider revising budget figures to the next £500</p> <p>JV requested more information on the significant reduction in the budget for communications. JH advised that transformation work relating to the website would be included under digital projects which accounted for the apparent reduction.</p> <p>Looking at accommodation costs, MD noted that she had expected stable constant figures but there is a reduction. JH confirmed that discussion regarding treatment of the rent incentive and IFRS 16 accounting requirements had led to the</p>	<p>Senior Manager Policy and Sector Improvement</p> <p>Finance Governance & Business Manager</p> <p>Finance Governance & Business Manager</p> <p>JH/Finance Governance & Business Manager</p>
--	--	---

	<p>changed figures, and that discussion with CI colleagues to finalise these matters were ongoing and would be clarified in the April Budget split paper.</p>	
14.	<p>Board involvement in Statutory Reviews</p> <p>JV introduced this paper which gives an overview of the historical involvement of Board members in statutory reviews and the possible lack of clarity around processes.</p> <p>The paper contains 5 questions which the Board discussed.</p> <p>Question 1 – The Board agreed that this makes sense and sought clarity around the role in the process of the CEO as Accountable Officer in the process. MT clarified that the AO role as such is not relevant in these decisions.</p> <p>MM and MD clarified that under the Schedule of Delegation the OSCR Board delegates decision making to the CEO and staff as permitted by the 2005 Act.</p> <p>In relation to the issue of predicting likely reviewable decisions, MT clarified there is a Risk Assessment form and scoring mechanism at the start of cases. In inquiry cases such decisions can though emerge as circumstances change over the course of an enquiry.</p> <p>Board members noted they would like to see the risk assessment process for awareness.</p> <p>Action – Arrangement to be made to ensure Board members are aware of how the Risk Assessment Process works.</p> <p>The Board agreed with the first question.</p> <p>Questions 2, 3 and 4 were looked at together.</p> <p>In relation to the need to avoid individual members of staff reviewing decisions they had been part of taking at first instance it was noted that staff who are not on the Cases Committee could carry out a statutory review. The Board discussed the possibility of an outside organisation/person being involved in statutory reviews such persons could only ever advise OSCR on a decision and external legal advice can anyway be sought to assist with decision making at review.</p>	MT

	<p>It was noted that the 21-day deadline is challenging, though in previous cases this has, on rare occasions, been extended by agreement with the person/charity seeking the review.</p> <p>The board agreed questions 2, 3 and 4</p> <p>The Board discussed question 5 noting that they are clearly delegating decision making to staff and the Casework Committee will be advised of reviews and their outcomes. The review decision maker needs to be available to appear at tribunal or in court to speak to the decision when necessary.</p> <p>The Board stressed that they want staff to feel supported by the framework that they make.</p> <p>MM thanked board members for the thoughtfulness and concern for staff. Considerations around this have been looked at, and staff are not doing this work in isolation.</p> <p>Board members confirmed they are content with question 5 but noted that this will require to be reflected in TORs for the Cases Committee, the Board's Standing Orders and the Scheme of Delegation.</p> <p>Action –Standing Orders, ToRs and Scheme of Delegation to be reviewed in light of the Board's decisions on the role of the Board in relation to reviews, and revised versions to be brought to the Board for approval.</p>	<p>Senior Legal Advisor /MT</p>
15.	<p>Engagement Strategy Mar 2024 – Mar 2027</p> <p>The Senior Manager Policy and Sector Improvement introduced this paper and gave clarification on what is meant by engagement. The Board felt this was still at a very strategic level and suggested a table recording our aims for each group would be useful to show what the strategy will deliver. They also suggested a mindmap or chart, setting out aims for engagement with different stakeholder groups, noting that this needs to be balanced with resource issues.</p> <p>MT confirmed that a table has been prepared however the desire was to check the Board were content with the principles of the strategy before drafting the full strategy.</p> <p>Senior Manager Policy and Sector Improvement noted that we will need specialist advice and to look at best practice from other regulators in ways to engage with seldom heard communities.</p>	

	Action – Engagement Strategy Mar 2024 – Mar 2027 to be brought back to the Board meeting in April for approval.	Senior Manager Policy and Sector Improvement
16.	<p>Review of board papers</p> <p>MD reflected on the very busy meeting. We will continue to have almost all of our meetings in person.</p>	
17.	<p>Date of Next Meeting</p> <p>The next meeting is the Board Strategy Day on 18 March. It is noted this will be JW's last engagement with the Board.</p> <p>The agenda is to be finalised, however includes 3 main items:</p> <p>Andrew Cubie will join the meeting and we will discuss learning around complex cases and his experience of being part of a complex inquiry.</p> <p>JV and MM will lead on changes to the model of conduct for Board members and staff.</p> <p>MM, MT and JH will lead on – Public Sector Reform including their thinking around where this is going and the implications for OSCR.</p> <p>MD listed items to be included on the Board Schedule of Business:</p> <p>List of strategies to the April meeting.</p> <p>MD closed the meeting.</p>	