

MINUTES

OSCR BOARD MEETING

Held on 26 May 2006 @ 10.00 am

Present: John Naylor, Chair
Frank Kirwan, Deputy Chair
Martin Crewe, Board Member
Annie Gunner, Board Member
Lindsay Montgomery, Board Member
Iris McMillan, Board Member

In attendance: Jane Ryder, Chief Executive
Judith Hayhow, Head of Resource Management
Marieke Dwarshuis, Head of Charities
Kirsty Gray, Head of Monitoring & Investigation

ACTION

1. Minutes of Previous Meeting

The Minutes of the meetings of 9th March (as amended) were agreed as correct.

The Minutes of the meeting of 15th March were agreed as correct.

2. Declaration of Interest

Lindsay Montgomery, Frank Kirwan and Iris Macmillan all noted that they are charity trustees for charities that have Trustee Indemnity Insurance (TII) in place for their charity

ACTION

trustees. It was agreed that this fact did not preclude them from taking part in the Board's discussion on the topic of TII.

3. Matters arising

The Board agreed that future Board minutes should include an action sheet at the end of the minutes for ease of reference.

In accordance with Board procedures, it was formally noted that Board members had approved the Consents and Notifications Guidance paper, which had been circulated to board members by e-mail after the meeting of 15th March.

3.1 Launch

The evaluation of the OSCR launch on 24th April had been circulated. There had been very good press coverage, both in volume and in quality, and the evaluation and feedback from the event itself had been very good. The feedback highlighted the importance of differentiating, when engaging with the charity sector, between types and sizes of charities. The sector is so varied that a 'one size fits all' approach may not always be the best, even for presenting OSCR Annual Reports. The high proportion of small charities was noted. Their needs may require particular attention.

4. Chief Executive's report

The Chief Executive confirmed that she and OSCR staff met researchers on the matter of Support services for the voluntary sector (not Full Cost recovery).

Board members asked whether difficulty was expected in relation to the designation of Designated Religious Charities. The Chief Executive advised that this work is still to be scoped.

In addition to the written report presented to the Board, the following was reported:

ACTION

4.1 Regulations Timetable

An indicative timetable for the production of Regulations has been received from the Scottish Executive, from which it is clear that Regulations are likely to be later than anticipated. The Board noted its disappointment with this. OSCR have pressed for firm commitments and involvement in the development process and the Chief Executive will continue to pursue this.

**Chief Executive
to discuss further
with VIU**

4.2 Finance Committee

The Chief Executive had given evidence On 23 May to the Scottish Parliament's Finance Committee, for its enquiry on accountability and governance. The questions posed in the evidence session highlighted the importance of OSCR finalising the Framework Agreement with the Scottish Executive, as well as the publication of the OSCR corporate plan and initial performance measures both of which the Chief Executive was able to indicate were in hand.

4.3 Update on Guidance Publications

The Charity Trustee Guidance and Accounts Regulations guidance will be taken forward including involvement of User Groups. A list of members of the User Group will be circulated to the Board.

**Chief Executive
to circulate
list of User
Group members**

The Chief Executive confirmed that each publication OSCR will produce has an associated communication plan drawn up, covering who is the key audience, which communications channels will be used and why.

4.4 Performance information

Board members welcomed the information presented. Board members also asked for additional information.

ACTION

- How many cases are currently with OSCR
- What is the average turn around time, and how much of this is time 'with OSCR' and how much of this is time elapsed waiting for additional information from the applicant
- How many complaints have been made about OSCR

The Board asked the Chief Executive, in addition to the numerical reporting against key performance indicators, to identify major trends in OSCR's work, especially in relation to any incoming complaints about charities.

Chief Executive to include in future reports

4.5 Update from the Chair

The Chair informed the Board of his meetings with the Deputy Minister for Communities, and the Head of the Voluntary Issues Unit at the Scottish Executive.

5. Corporate Plan Outline

It was **agreed** that the focus of the first Corporate plan 2006-07 should be on what will be achieved in the first year of OSCR operating with its full functions, but that attention also needs to be given to considering the overall vision and values as discussed by the Board and Chief Executive the previous evening.

The next full three year Corporate plan (2007-10) will need to be drawn up through a full planning process, and that process itself still has to be established. The Board **agreed** that staff engagement will be built into the overall planning process. The Board requested the Chief Executive to outline a planning process, and timetable, for the development of the Corporate plan 2007-10.

It was **agreed** that, given agreed dates for Board meetings and the need to publish the 2006-07 Corporate Plan as soon as possible, a draft Corporate Plan would be circulated to the Board for comment and intended approval between Board meetings.

Chief Executive to draft & circulate corporate plan for 2006/07
Chief Executive to draft corporate planning timetable for 2007-10

ACTION

6. Rolling Review

The Chief Executive introduced the paper and highlighted that it came in two parts, policy and process. The first policy decision was whether or not OSCR conducted a proactive review of all charities. There was broad support for a review of all charities both to increase confidence in the sector and for its deterrent value. Where action was required as a result of a review, it would be proportionate and only where needed. Meanwhile, If third party complaints were made about an individual charity failing to meet the charity test, evidence would be required. The Board **agreed** to proceed with a proactive rolling review of existing charities.

The Head of Charities introduced the next part of the discussion. In terms of scope it was recognised that a review of charities could range from a review of the charity test only, as proposed, through to a complete health check on each charity. Taking into account the rollout of the proactive monitoring programme from June 2006, it was **agreed** that the rolling review would commence with the charity test only, recognising that in the longer term an evaluation of the interplay between the rolling review charity test and monitoring programme would be carried out to inform future cycles of review activity.

There was detailed discussion about methodology and prioritisation issues and it was **agreed** that a proposed programme for the rolling review be developed by the SMT and presented to the Board in July. The proposals are to include, options for forms of evidence, information gathering and assessment and criteria for prioritisation, with management recommendations, together with a time frame and resource impact assessment. As the process would be open to further consultation with the sector the programme for such consultation and associated pilot study are also to be available in July.

**Chief Executive and
Head of Charities
to progress for
July Board Meeting**

7. Trustee indemnity insurance 'TII'

The Chief Executive provided detailed background to the legal interpretation of sections 67/68 of the Act regarding TII, and communications with the sector and the Scottish Executive regarding the matter.

ACTION

Clarification was given as the Charity Commission role in England and Wales regarding TII.

The Board were advised that OSCR's independent legal advisers had confirmed the legal interpretation of OSCR staff. If, however, the Scottish Executive indicated their early intention to take steps to change the unintended consequence of the legislation, then the Board felt OSCR might legitimately demonstrate proportionality and exercise discretion in relation to this issue. The Board were pleased that pressure was being put on the Executive by OSCR staff for a swift statement. Meanwhile, it was agreed that some adjustments be made to the statement on the website following the meeting to reflect the Boards concerns about TII and clarify the difference between the powers of the Charity Commission and OSCR. To be agreed by the Chair.

**Chief Executive
to prepare
revised statement**

8. Audit Committee

Having taken equal opportunities into account, it was agreed that Lindsay Montgomery and Martin Crewe would serve on the Audit Committee under Frank Kirwan's chairmanship. Minor amendments were made to the proposed terms of reference for the audit committee, which were then approved.

9. OSCR Review Process. (Section 71-4 of the Act)

This item was chaired by Frank Kirwin who led the Board through paper 24 which provided the context for reviews and appeals against OSCR decisions and recommendations. The Board then considered and **approved** the recommended procedures subject to minor drafting amendments. Details of the updated Review Procedure will be published on the OSCR website.

**Chief Executive
ensure review
procedures
published**

10. Concordat with Communities Scotland

The Board noted the requirement under Part 20(1) of the Act for OSCR to seek co-operation between it and other relevant regulators. It had already agreed the merit in formalising such arrangements through the use of Concordats and saw effective co-operation as a fundamental parts of its mission to ensure that regulation was proportionate.

ACTION

The draft agreement which had been prepared in respect of OSCR and Communities Scotland, regulator of Registered Social Landlords. (160 of which also have charitable status) was considered. It was noted that the Concordat was the culmination of lengthy discussions between OSCR and Communities Scotland staff parties including discussion with the Scottish Federation of Housing Associations. Subject to some minor modifications the Board approved the Concordat, agreeing that the CEO has delegated authority for signing on behalf of OSCR. The Board also recommended that the CEO establish formal arrangements for monitoring that effective joint working in accordance with the Concordat was taking place. The Concordat would be reviewed after one year in light of this which would include feedback from users. It was further recommended that a monitoring framework be incorporated into future Concordats. The Chief Executive confirmed this was in hand.

A copy of the Concordat will be placed on the OSCR website, and if appropriate, the Chair will participate in a formal signing ceremony.

**Chief Executive
to arrange signing
of Concordat**

11. Concordat with Financial Services Authority

The Board considered and **approved** the draft concordat between OSCR and the Financial Services Authority with authority to the CEO as before.

**Chief Executive
to arrange signing
of Concordat**

Copies of the signed documents will be placed on the OSCR website. As OSCR is in the process of developing Concordats with a number of other regulators and organisations, the Board noted that they looked forward to considering and approving further Agreements at future Board meetings.

12. Establishing an Accurate Charity Register

The Board considered Paper (26-05-06/BOARD26) which outlined the work which had been undertaken by OSCR staff to date, to facilitate the creation and publication of an accurate Charity Register. It was noted that considerable progress has already been

ACTION

made, with accurate information in respect of over 20,000 charities now being published. Following discussion, the Board requested that consideration be given to the creation and publication of a record of organisations which had been removed from the

Register, together with the date of removal.

It was agreed that a Paper outlining the Resource Implications of creating such a 'deceased' Register, would be considered by the Board in June.

**Head of Charities
to prepare paper**

The meeting concluded at 3.15 pm.

Action Points: progress report

- Item 4.1 Regulations : discussed further with VIU on 2 June; more detail to be available for 12 June
- Item 4.3 User Groups : to follow
- Item 5 Corporate Plan : to follow as agreed
- Item 6 Rolling Review : for Board meeting 12 July
- Item 7 TII : Statement revised, approved, and posted on web site
- Item 9 Review Process : published on website
- Item 10 Concordats : arrangements to be made
- Item 12 Charity Register : to be considered under Matters Arising on 12 June