

## MINUTES

### OSCR BOARD MEETING

Held on 31 May 2008 @ 09.30 am

Sheraton Hotel, Edinburgh

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

**In attendance:** Jane Ryder, Chief Executive  
 Marieke Dwarshuis, Head of Charities  
 Kirsty Gray, Head of Monitoring & Investigation

		<b>ACTION</b>
1	<p><b>Minutes from Previous Meeting</b></p> <p>The Minutes of the 8 May meeting were approved with minor amendments:</p>	
2.1	<p><b>Declarations of Interest</b></p> <p>Disclosures from the 8 May Board meeting prevail.</p>	
2.2	<p><b>Agenda</b></p> <p>Agreed that Board paper 127 be considered at the next full Board meeting and that the revised Monitoring policy fits well with the planned agenda item on cross border monitoring.</p>	
3.	<p><b>Matters Arising</b></p>	
3.1	<p>Board recruitment</p>	

	<p>The Chair provided a progress report on the appointment of three new Board members and the likely timetable for the joint announcement of both new members and Frank Kirwan's resignation. The process for appointment of a new Vice Chairman to complete the term was also noted.</p>	
3.2	<p>Board governance guidance</p> <p>The Board agreed that the Chief Executive and Lindsay Montgomery would coordinate proposed revisions to the guidance and seek exemptions as appropriate</p>	
4	<p><b>Meeting the Charity test – New Guidance</b></p> <p>The Board thanked senior staff for an excellent board paper summarising changes to the MtCT guidance agreed on 8 May; outlining carried forward issues from that meeting and providing background information including a copy of the existing policy statement on unduly restrictive conditions.</p>	
4.1	<p>8 May revisions</p> <p>The changes to the guidance were noted and further agreed to remove the references to the parliamentary debate under section 7.6 (d).</p>	
4.2	<p>Brought forward issues from 8 May</p> <p>4.2.1 Should satisfaction of certain individual principles be considered sufficient on their own to negate the requirement to find evidence of other principles?</p> <p>A wide ranging discussion ensued stimulated by reference to the relationship between two extracts from the existing policy:</p> <p><i>Whatever the structure of the facilitated access, a scheme should make effective provision for those coming from a wide range of incomes including those on low incomes.</i></p> <p><i>Keeping the fee charged to an individual beneficiary as low as possible by covering the full cost through other routes (such as donations from the public or grants from public or private bodies) can be a way of ensuring a charge is not unduly restrictive.</i></p>	

	<p>It was noted that the use of the words low incomes was a nebulous term and could have a wide interpretation The affordability research would not necessarily resolve this . An absolute requirement for those with low incomes to benefit was therefore problematic</p> <p>Having discussed many different types of fee charging charities there was a consensus amongst the Board that access should be available to as wide a range as possible and that in every fee charging charity OSCR should seek evidence of a ‘charitable response’ reflected through the fee charging structure and/or facilitated access arrangements. The wording of section 7.6 the MtCT guidance is to be amended accordingly.</p> <p>OSCR has the responsibility to <i>direct</i> a charity to change unduly restrictive conditions in order to meet the charity test. However in taking the above approach OSCR will also be able to provide <i>recommendations</i> to any fee charging charity about the development of its charitable response</p> <p>It was agreed that in assessing unduly restrictive conditions there are no absolutes and that reviews would be carried out on a case by case basis, and applying a proportionate approach where fees are low and insignificant. There will be an expectation of public transparency from all fee charging charities with respect to information on fee structures and any facilitated access arrangements.</p>	
4.2.2	<p>Will OSCR always need to obtain information on known requests for facilitated access?</p>	
	<p>The Board agreed that if there is a disparity between the facilitated access apparently available and that taken up, it is appropriate to secure additional information.</p>	
4.2.3	<p>The status of facilitated access through an employer?</p>	
	<p>After discussion the Board agreed that this is an area requiring further exploration</p>	
4.2.4	<p>The status of sibling discounts as a form of facilitated access?</p>	
	<p>The Board agreed that such discounts would have a</p>	

	<p>very low weighting or importance in the assessment of facilitated access arrangements.</p>	
<p>5</p>	<p><b>Work plan and communications strategy</b></p> <p>The Board recognised that given the importance of the guidance and its impact on the delivery of the rolling review programme further work was required in the following areas:</p> <ul style="list-style-type: none"> <li>• MtCT guidance redrafting</li> <li>• Assessment of the results of the affordability research</li> <li>• Consideration of employer funded access</li> <li>• Further discussions with Phase1a rolling review participants</li> </ul> <p>In light of this the Board agreed that ongoing work would be progressed over the summer months dialoguing with the Board as appropriate via email with a view to signing off the MtCT guidance and considering the results of the Phase 1a rolling review cases at the September Board meeting. The Chief Executive and senior staff would implement the internal and external communications strategy.</p> <p>The July meeting will deal with other important Board business and be a suitable introductory meeting for new board members. The meeting to take place over the evening of 21 and all day 22.</p> <p><i>The meeting closed at 12.30pm</i></p>	