

PAPER NUMBER: 2013-05-15/BOARD/344

MINUTES

OSCR Board meeting

Held on 14 February 2013 at 10 am

OSCR, Quadrant House, Riverside Drive, Dundee

Present: The Very Reverend Dr Graham Forbes, Chair
 Lindsay Montgomery, Deputy Chair
 Fiona Ballantyne, Board Member
 Annie Gunner Logan, Board Member
 David Harrison, Board Member
 David Hughes-Hallett, Board Member
 Kaliani Lyle, Board Member

In attendance: Laura Anderson, Head of Enforcement
 Judith Hayhow, Head of Support Services
 Martin Tyson, Head of Registration
 Jane Holligan, Editor/Policy Officer and Board Secretary
 Moira Cathcart, Senior Legal Adviser

		ACTION
1.	<p>Welcome and apologies</p> <p>No apologies were received from Board Members. Apologies were noted from David Robb, OSCR Chief Executive.</p>	
2.	<p>Declarations of interest</p> <p>Graham Forbes declared an interest in Agenda item 4 as Provost of St Mary's Cathedral and his involvement in St Mary's Music School; he also declared an interest in Agenda item 5 as Chair of Court, Edinburgh Napier University. Kaliani Lyle declared an interest in Agenda item 2 as Scotland Commissioner of the Equality and Human Rights Commission. David Harrison declared an interest in Agenda items 2 and 5 as a Member of the Funds Advisory</p>	

	Committee of the Edinburgh & Lothian Health Foundation.	
3.	<p>Agenda item 1: Minutes of the meetings of 16 November 2012 and 19 December 2012, and matters arising</p> <p>Minutes approved. No matters arising.</p>	
4.	<p>Agenda item 2: Chief Executive’s Report</p> <p>The members of the Senior Management Team presented the Chief Executive’s report on recent notable events (Paper 339). The Head of Registration outlined the procedure for the Board to take part in the upcoming review of the decision in respect of St Margaret’s Children and Family Care Society on 27th February. Board members said they were clear about the terms and arrangements for the future decision.</p> <p>The Head of Registration said that at the appropriate point staff would present a Board paper summarising lessons learned regarding practical considerations relating to the recent appeal to the Scottish Court Appeals Panel review processes.</p> <p>The Board also discussed several high-profile cases including one where a charity and its umbrella group are in dispute. On the issues of principle involved, the Board agreed it would be worth getting clarity through a judicial proceeding for the benefit of the sector as long as charities were informed of our reasons for taking this course of action.</p> <p>The Board discussed ongoing and new concerns being raised about conduct of different arms’ length organisations (ALEOs). The Board asked that arms’-length organisations as a group be classified as ‘high-risk’ by OSCR in its risk-based monitoring of charities because of a potential effect on public confidence in them as charities. Board members welcomed plans to hold six ‘Meet the Charity Regulator’ events around Scotland this year.</p> <p>Regarding the draft guidance on political campaigning ahead of the referendum, the Board said that demand for guidance was likely to</p>	LA/JH/MT

	<p>increase. They agreed to comment on the draft guidance at the next Board Meeting.</p> <p>Looking at the monthly statistics, Board members asked if we had a way of feeding back to support organisations about those charities whose accounts fail. They asked for staff to consider particularly what we do with the information that we collect to help charities do better.</p> <p>On management accounts, the Board asked about a variance in the item on accommodation. The Head of Support Services said this was a result of a rent review that was successfully challenged. She said there was also ongoing work about performance reporting and that the corporate indicators used may change as a result of this exercise.</p> <p>The Board noted the CEO Report.</p>	
<p>5.</p>	<p>Agenda item 3: Monitoring review update</p> <p>The Head of Enforcement presented Paper 340 that updated the Board on the Monitoring Review, which she said was about making better use of the information that we have and being more targeted in our monitoring activity. She said that cost-benefit analysis is being done on publishing all accounts and work was progressing on a risk tool and methodology. The Board asked that we look at how far risk-based and targeted activity would meet our statutory duty and cover, as far as possible, the identification of wrongdoing, some of which might otherwise be missed: this might include identifying behavioural issues or anomalies in some organisations. Board members said that some reallocation of resources to carry out proactive checks other than on accounts might mitigate risk. Regarding the publication of accounts, Board members asked if there was evidence of public demand to see accounts. The Head of Enforcement said that while larger charities usually put accounts on their websites, people do ask to see accounts of smaller charities quite frequently. Board members asked about the level of consultation there would be with charities about plans and publishing accounts. The Head of Enforcement explained that there would be a series of consultations with relevant stakeholders as plans unfolded. There will also be an</p>	<p>LA</p>

	<p>announcement to inform charities about the overall direction of travel. The Board also asked that staff look again at how the aim was expressed to make sure it included a clear explanation of what monitoring is there to do and that this is wider ‘compliance’ monitoring, which is more than accounts monitoring alone.</p> <p>The Board noted the Paper.</p>	
<p>6.</p>	<p>Agenda item 4: Update on schools</p> <p>The Head of Registration introduced Paper 341 an update on the review of charitable status of fee-charging schools not previously reviewed. The Head of Registration stressed the emphasis on fairness and consistency with agreed principles and previous decisions. Board members also noted that within that framework each decision was taken on a case-by-case basis. It was agreed that all decisions should be collated for the Board’s information at the May meeting. The Board confirmed that the framework for decision set out by the Head of Registration should continue to be the basis for the coming batches of decisions. Given the complexity of this area, the Board also agreed that once all schools’ decisions had been made it would explore the issues raised in the light of all the decisions.</p> <p>The Board noted the paper.</p>	<p>MT</p>
<p>7.</p>	<p>Agenda item 5: Governance of Further Education Colleges and Ministerial involvement with charities</p> <p>The Head of Registration presented paper 342 on issues emerging with the governance of Further Educations Colleges relating to Ministerial involvement with charities. The Board was not clear that there was a particular problem of public confidence relating to ministerial control of charities; awareness of this is fairly restricted. However, the Board were content for staff to pursue the suggestion in the paper for a broad discussion with SG officials about trends and policy considerations around ministerial involvement.</p> <p>The Board noted the paper.</p>	<p>MT</p>

<p>8.</p>	<p>Agenda item 6: Consultation on ethical standards for devolved public bodies</p> <p>The Head of Support Services presented paper 343 on the consultation being carried out on ethical standards for devolved public bodies. The Board commented on the ‘objective test’ when declaring conflicts of interest and asked for clarification about dispensations, for instance, given that most OSCR Board members were also charity trustees, this was covered by a general dispensation. They said that knowledge and experience of a subject in general should not prevent people sitting on a Board; for instance, OSCR Board members should be expected to have an interest in charities.</p> <p>The Board noted the paper and asked staff to prepare a consultation response that supported making Boards workable and permitted the appropriate people to sit on Boards, bearing in mind the functions of the public bodies involved.</p>	<p>JH</p>
<p>9.</p>	<p>Any other business</p> <p>None raised.</p>	