

## Management Board – for decision

**Meeting agenda title:** Regulatory Committee Terms of Reference

**Meeting date:** 20 March 2023

**Time required:** 5 minutes

**Presenter:** John Kavanagh

**Objective and recommendation:** Management Board is asked to review and approve updated terms of reference for the Regulatory Committee, set out below, to take account of the adjustment following ICO25.

## Regulatory Committee Terms of Reference

### 1. Purpose

1.1. The Regulatory Committee supports the Management Board in providing strategic oversight of the ICO's regulatory delivery, including methodologies, decision making and processes in line with our strategic enduring objectives, to ensure that these are effective and fit for purpose.

### 2. Responsibilities

2.1. The Committee is responsible for scrutinising regulatory impact, performance and service provision by the ICO.

2.2. The ICO's regulatory delivery framework sets out six elements for successful regulatory delivery.

2.3. This includes the pre-requisites of successful regulatory delivery:

- Governance Framework - Purpose, structure, landscape, powers and responsibilities
- Accountability - Transparency mechanisms and effectively empowering and building the capacity of others to hold the regulator to account
- Culture - Leadership, values and competence

- 2.4. The framework also includes the operational practices required for successful regulatory delivery:
- Outcome measurement
  - Risk-based prioritisation
  - Intervention measurement
- 2.5. These elements inter-relate and do not operate in isolation or in order of precedence.
- 2.6. Using the context of these six elements of regulatory delivery set out in the framework, regulatory committee will provide scrutiny around the following key questions:
- Is the ICO undertaking regulatory activity in a way that appropriately takes account of and delivers on our range of statutory duties, strategic objectives, and overarching strategic objectives? Is this being carried out in a sufficiently open and transparent manner to deliver regulatory certainty?
  - Is the ICO's regulatory activity effectively delivering the desired outcomes as set out in our current strategic plan? Is our activity empowering organisations to use data responsibly and innovatively whilst also protecting people, especially the vulnerable?
  - Are our measures for tracking the impact of our regulatory activity effective? Do these measures indicate where we should assign our activity, or where we need to change approaches?
  - Have we taken account of the wider context of political, social and economic issues when considering the risks and opportunities of our regulatory activity?
  - Have we achieved a high level of assurance on having the right skills, structures and culture in place in order to deliver our regulatory work? Are there areas to address to provide the committee with that assurance?
- 2.7. The Committee will not have any role in advising the Commissioner or his staff on individual cases.

### 3. Authority

- 3.1. The Committee's authority derives from the Management Board.

- 3.2. The Committee operates based on collective decision making principles and a 'majority vote' in circumstances where a consensus view cannot be reached.
- 3.3. The Commissioner, as a Corporation Sole, will always have the right to set a course of action that is contrary to the majority view of the Committee. Nothing in these terms of reference shall detract from the authority of the Information Commissioner as Accounting Officer and as a Corporation Sole.
- 3.4. The Committee is authorised, where necessary, to obtain any external advice it deems as reasonable. The Committee is also authorised to call any ICO staff to be present at the meeting as required.

## 4. Links to other bodies

### Management Board

- 4.1. After each Committee meeting, the Chair will report to the next meeting of the Management Board to update the Board on any key matters considered by the Committee. Where necessary, matters may be referred directly to Management Board rather than being considered by Regulatory Committee.

### Regulatory Delivery Board

- 4.2. The Regulatory Delivery Board is the SLT Board responsible for overseeing, managing and co-ordinating our delivery of regulatory functions. The Deputy Commissioner – Regulatory Supervision and Deputy Commissioner – Regulatory Policy chair the Regulatory Delivery Board and attends all meetings of the Regulatory Committee.

## 5. Chair

- 5.1. The Information Commissioner will chair the Committee.
- 5.2. If they deem it necessary, they may designate a deputy chair of the Committee.

## 6. Composition

- 6.1. The members of the Committee are:
  - Chair: Information Commissioner
  - Deputy CEO and COO
  - Deputy Commissioner – Regulatory Supervision

- Deputy Commissioner – Regulatory Policy
  - Chair of Policy Board (Director of Regulatory Policy Projects)
  - Three Non-Executive Directors
- 6.2. The Committee may appoint an Independent Member with appropriate experience.
- 6.3. The Committee may invite any other ICO staff or Non-Executive Directors to attend meetings, whether for full meetings or parts of meetings. The Committee may require such staff to attend whenever needed to transact business of the Committee.

## 7. Quorum

- 7.1. The quorum is three, including at least one Executive and one Non-Executive Director.

## 8. Information requirements

- 8.1. The Committee should ensure that arrangements are in place to enable it to discharge its responsibilities effectively, including the timely provision of information in an appropriate form and quality to enable thematic discussion of the elements of regulatory delivery. Information updates should aid this wide-ranging discussion at the strategic delivery level. This may include, as appropriate to the regulatory delivery elements, information on:
- Delivery of ICO25 regulatory objectives, statutory codes, regulatory duties and reviews.
  - Delivery of the ICO's statutory duties
  - The impact of any novel or contentious legal action on regulatory delivery
  - Significant monetary penalties issued (or similar significant regulatory action)
  - Outcomes of any internal audits related to the Committee's role.
  - Outcomes of any lessons learned exercises in relation to regulatory activities.
- 8.2. The Committee is authorised to obtain external legal or other professional advice as required. There are no specific limits on cost of this, so long as the Committee is satisfied that the cost is reasonable.

## 9. Budget

9.1. The Committee is not responsible for a specific budget. Where the Committee's actions require a budget, this will be funded from a relevant Directorate budget.

## 10. Secretariat

10.1. Secretariat is provided by the Corporate Governance Team.

## 11. Frequency of meetings

11.1. The Committee will meet at least three times per year. The Chair may call additional meetings as necessary.

## 12. Links to other forums

12.1. The Committee's place in the overall governance structure is set out in the diagram below.

