Policy Board terms of reference

1. Purpose

1.1 The overall purpose of the SLT Boards is to deliver SLT’s purpose of strategic oversight and delivery of cross-office priorities and plans. The Boards were created to ensure that sufficient capacity within these meetings for consideration, challenge, and scrutiny to deliver SLT’s collective role.

1.2 The Policy Board is tasked with ensuring the ICO has clear policy positions in place to both guide and underpin our work as a regulator. The Board is also responsible for supporting and developing the ICO’s Policy Profession and our policy development methodology.

2. Responsibilities

2.1 The Board will consider, and make decisions on, three types of paper:

- Issue notes: A paper setting out our current understanding of a policy issue. It should describe what we already know, where the potential risks and trade-offs lie and any views on the likely time horizons for the issue. The role of this paper is to: test with Policy Board whether the articulation of the issue and associated risks and trade-offs is accurate; and get Policy Board views on whether further development of this issue is required and prioritise and allocate resource appropriately.

- Approach papers: A paper setting out the issue, risks and trade-offs as above, but which also sets out how the paper authors intend to approach further development of the issue to reach a proposed policy position. This should include details of planned input from internal/external stakeholders, relationship to other relevant work and plans for gathering/commissioning appropriate evidence/research. The role of this paper is to: test with Policy Board whether the articulation of the issue and associated risks and trade-offs is accurate; and get input from Policy on links to existing internal/external work, stakeholder engagement and approach to developing an evidence base.

- Policy position paper: A paper setting out the issue, risks and trade-offs as above, but which also sets out the
proposed policy position, why this is preferred and any viable alternatives, with brief analysis on the pros and cons of these. It should also briefly describe the internal/external engagement undertaken to come to that position and the evidence that underpins it. The role of the paper is for Policy Board to agree with the proposed position, or one of the outlined alternatives, providing clear rationale when an alternative position is chosen.

2.2 The Board is responsible for:

- considering significant and pressing issues of strategic policy direction and resolving these;
- regularly considering, and actively identifying, ICO horizon scanning opportunities and advising on future areas for further policy development that will inform the ICO’s regulatory strategy;
- advising on potentially far reaching or high profile issues around legislative interpretation;
- reconciling different policy or interpretative approaches and ensuring consistency;
- identifying areas where policy products including guidance are required outside planned activities;
- acting as an escalation mechanism for regulatory activities such as providing formal opinions on Data Protection Impact Assessments where the proposed approach may be far reaching and have significant regulatory effect or likely to attract widespread attention.

2.3 In exercising these responsibilities, the Policy Board will:

- ensure alignment with the ICO’s Information Rights Strategic Plan, Regulatory Action Policy and subordinate published strategies;
- ensure that activities accord with the ICO policy development methodology as necessary;
- take account of ICO horizon scanning analysis and commission further analysis when needed;
- from the strategic policy issues considered, identify and take into account any wider effects for the ICO’s activities including
the work of the Regulatory Panel and Regulatory Delivery Board;

- take into account better regulation duties including economic impact especially on small controllers and public authorities;
- have regard to existing relevant published guidance, especially by the EDPB and other regulators;
- take into account the wider geopolitical environment and the impact that decisions may have in the context of the ICO’s international strategy.

2.4 The Policy Board is also responsible for ensuring that equality, diversity and inclusion (EDI) considerations are continually considered and addressed throughout the ICO’s work. The Board is also responsible for ensuring the delivery of the ICO’s equality objectives (within the Board’s remit). The Board may refer issues to the EDI Board as appropriate, and consider issues referred to it by the EDI Board.

2.5 The Policy Board does **not** make decisions about use of ICO powers, including regulatory action against data controllers or data processors.

3 Work Programme

3.1 The Policy Board will maintain a work programme which sets out its expected activities to meet these responsibilities for the next 12 months. The Policy Board will consider this work programme at each meeting. Corporate Governance will keep this work programme up to date based on the information provided by Board members.

4 Authority

4.1 The Board derives its authority from ET and SLT. Where work of the Board is materially contributing to achieving ET’s goals, the Board will report this to ET for assurance. Where the work of the Board introduces a significant risk to achieving ET’s goals, the Board will refer that to the relevant ET member, who may refer this to ET for decision. ET’s goals are provided as an annex to these Terms of Reference.

5 Reporting to other bodies

**Senior Leadership Team**
5.1 The Chair of the Board will provide a report on the Board's activities to each meeting of SLT. This includes highlighting any issues to be discussed at future Board meetings, to facilitate advanced consultation. The Board's work programme will also be provided to each SLT meeting for information.

5.2 Where required, other members of the Board Networks may attend SLT meetings to provide information or input from the Policy Board.

Other Boards

5.3 The Policy Board will work collaboratively with the other Boards as appropriate, ensuring that views of other Boards are considered when the Policy Board exercises its responsibilities, and understanding that other Boards will act similarly in considering the Policy Board’s views. This may happen at an informal level between Board Chairs or Board members.

5.4 The Policy Board will highlight issues to SLT or refer issues to other Boards for information where it is clear that another Board should be aware of the work of the Policy Board.

5.5 There is no overlap between the roles of the Boards. However, in exceptional circumstances, there may be issues where approval is required by more than one Board before action can be taken. This should be avoided wherever possible through discussion between Board chairs and consultation between Board members. However, where this is unavoidable, the same report should be reframed and presented to both Board meetings, with a clear recommendation on the specific decision needed from each Board. Outcomes from one Board will be reported to the other Boards. Corporate Governance will facilitate this process.

5.6 In the event of a conflict between two Boards, the Chairs should meet to determine the way forward and inform Corporate Governance accordingly. If conflict remains, the matter should be referred to SLT for decision.

Programmes

5.7 The Policy Board may be responsible for the delivery of a range of programmes. These will be delivered through a separate programme board, but as required this programme board will report to the Policy Board to ensure appropriate oversight.

Executive Team
5.8 The Board may refer issues to ET where they require clarity, direction and approval in areas of greatest corporate risk or opportunity.

Management Board

5.9 Minutes of Board meetings will be presented to the Management Board for information.

6 Chair

6.1 The Board is chaired by the Director of Domestic Regulatory Strategy.

6.2 When the chair is unavailable for a meeting, they will nominate a substitute to chair the meeting in their absence.

7 Composition

7.1 The Board comprises:
- The Chair (Director of Regulatory Strategy)
- Deputy Commissioner (Executive Director – Regulatory Strategy)
- Director of Communications
- Director of Legal Services (Regulatory Advice & Commercial)
- Director of Legal Services (Regulatory Enforcement)
- Head of Technology Policy
- Head of Policy Advice

7.2 In addition, the following “opt-in members” will receive papers and may opt to attend where they have strong views on the issues to be discussed, or where the issues significantly affect their business area.
- Director of Regulatory Strategy (Parliament and Government Affairs)
- Acting Director of Regulatory Assurance
- Director of Regulatory Assurance
- Director of Investigations
- Director of High Priority Investigations and Intelligence
- Head of Intelligence
- Head of FOI Complaints and Appeals
• Head of Economic Analysis

7.3 If a member is unable to attend the meeting, they should nominate a substitute to attend in their place, and inform Corporate Governance accordingly.

7.4 The Executive Team will be invited to attend all Policy Board meetings to provide strategic direction and vision.

7.5 The Chair may amend this membership as required. They will report this to the next meeting of the Board when doing so, including the reasons for the change in membership. Corporate Governance will then update the Terms of Reference.

7.6 The Chair may also invite any other ICO staff to Board meetings as required. This may include Chairs of other Boards, where an issue with crossover to that Board’s area of responsibilities is due to be discussed.

8 Quorum

8.1 The quorum is:
• The Chair (or their nominated substitute)
• Any other four members (including those opt-in members set out at 7.2 and Executive Team members) and where the Chair is satisfied that a suitably broad range of views will be available given the agenda items to be considered.

8.2 Apart from the Deputy Commissioner (Regulatory Strategy), members of the Executive Team do not count towards the quorum.

9 Information requirements

9.1 All Board members are responsible for ensuring that appropriate information is provided to the Board to complete its responsibilities, including appropriate consultation to ensure that all potential impacts are considered before decisions are made. The Chair is ultimately responsible for determining what information is required.

9.2 The agenda will be agreed by the Chair. The agenda and succinct supporting papers, making clear the decision to be considered, will be circulated to attendees no later than three clear working days in advance of the meeting.

10 Budget
10.1 The Board has no specific budget. Any work commissioned by the Board will be funded from budgets within the relevant Directorate(s), or funded through an approved business case where necessary. This should be exercised in accordance with all other ICO budget controls.

11 Secretariat

11.1 Secretariat is provided by the Corporate Governance Team.

12 Frequency of meetings

12.1 The Board should normally meet monthly and will meet at least six times per year.

12.1 Due to the nature of the Board's work, there will be occasions on which additional meetings are required to consider specific policy issues. The Chair is empowered to convene these meetings as required.

13 Decision-making between meetings

13.1 In the event that an urgent decision is required between meetings and the Chair considers that the issue does not justify convening an additional meeting, the Policy Board may consider reports by correspondence, particularly those reports not likely to require significant discussion. Corporate Governance will facilitate this.

13.2 Any reports considered on this basis must receive sufficient responses to constitute the quorum for a Policy Board meeting. Policy Board members will usually be given one week to consider reports circulated by email, but if a clear consensus emerges before that, the decision may be implemented sooner. If significant discussion is required, the report should be referred to the next Policy Board meeting.

13.3 Corporate Governance will provide a report to each Policy Board meeting on any matters considered by email, the comments received and the outcome of the consideration.

14 Evaluation

14.1 On an annual basis (or more frequently if required), SLT will review the ICO's corporate governance structure to ensure that it remains appropriate. The Boards should ensure that arrangements are in place to enable it to feed into this review and satisfy itself that it is discharging its responsibilities effectively and efficiently.
15 Publication of papers

15.1 The agenda for each meeting will be published internally via SharePoint. The minutes will be published internally via SharePoint, once approved. Reports will be published internally via SharePoint where deemed appropriate by report authors.

15.1 Agendas, minutes and reports will not be published externally.

16 Links to other forums

15.1 The Board's place in the overall governance structure is set out in the diagram below.

15.2 The Policy Board supports the work of the Regulatory Board and the ICO’s regulatory activities by making strategic policy decisions that are likely to have a future enduring bearing on the ICO’s regulatory functions or interpretation of the law we regulate.

15.3 The Policy Board complements the work of ET, SLT and the other Boards by providing clear direction, based on established policy positions, to support the achievement of strategic objectives.

15.4 The Policy Board also complements the work of the Policy Advice Service Virtual Decision Board, which makes more immediate decisions in response to requests for specific policy advice beyond established existing lines. This Policy Advice Service Virtual Decision Board will also refer matters with greater strategic implications to the Policy Board.
Annex – Executive Team goals

- **Position** of the organisation as the information rights regulator – setting the vision and mission and ensuring that all activities, either directly or indirectly, contribute towards it. Long-term horizon scanning, ensuring the strategic direction is based on a collective understanding of policy issues; using outside perspective to ensure that the ICO is challenged on its outcomes and understanding the perspective of others, in particular the regulated community and the public.

- Setting the tone and **culture** of the ICO – setting the ICO’s risk appetite and ensuring controls are in place to manage risk; agreeing and monitoring the ICO’s people related strategies and plans, monitoring the organisation’s compliance culture and ensuring there is a clear vision for the way the ICO works and understanding of its values.

- Ensuring the ICO has the capacity and **capability** it needs - determining sign-off of large operational projects or programmes; ensuring sound financial management; scrutinising the allocation of financial and human resources to achieve the plan and ensuring organisational design supports attaining strategic objectives. Evaluation of the Board and its members and succession planning to ensure the ICO has the capability to deliver and to plan to meet current and future needs.

- Defining the **perception** of the ICO – agreeing plans and strategies; setting objectives for strategic engagement activities; driving the ICO to be an effective, modern, independent regulator.

- Monitoring the **performance** of the ICO towards achieving its strategic goals – ensuring clear, consistent, comparable performance information is used to drive improvements and demonstrate the impact of the work of the organisation. Monitoring and steering performance against plan; scrutinising performance and setting the ICO’s standards and values, holding the Executive to account for delivery of its plans and strategies.