

## **Executive Team minutes**

Tuesday 1 September 2015

### **Members and other attendees present**

Simon Entwisle	Deputy Chief Executive Officer
Christopher Graham	Information Commissioner
David Smith	Deputy Commissioner and Director of Data Protection
Graham Smith	Deputy Commissioner and Director of Freedom of Information
Peter Bloomfield	Senior Corporate Governance Manager (secretariat)

### **1. Introductions and apologies**

- 1.1. There were no introductions or apologies.

### **2. Matters arising from the previous meeting**

#### Minutes

- 2.1. The minutes of the previous meeting were adopted with minor amendment.

#### Action points

- 2.2. The one outstanding action point relating to Deputy Commissioner roles was reported as being cleared.

### **3. Investigating breaches of s55 of the Data Protection Act and s77 of the Freedom of Information Act**

#### Issue

- 3.1. Stephen Eckersley, Head of Enforcement, presented a paper detailing lessons learnt from the ICO's handling of investigations into alleged breaches of s55 and s77 by its own staff. The paper

also made proposals for the better recording and managing of such investigations. These recommendations covered identifying allegations, actions taken, decisions made and the required level of oversight. Discussion centred on differentiating between substantive allegations and those which were not.

### Decisions

- 3.2. Executive Team strongly supported the proposals and agreed the following:
  - 3.2.1. The policy should include the initial handling of information requests which might give rise to an allegation of a breach of s77 of the Freedom of Information Act – and the requirement to have these deal with formally by the Information Access Team.
  - 3.2.2. There was a need to focus the policy on substantive allegations. It was recognised that decisions on whether an allegation was substantive would be subjective and that staff should discuss these with managers and record the decision made.
  - 3.2.3. The chair of the Audit Committee (rather than that of the Remuneration Committee) should be made aware of any allegations that the Commissioner had committed a criminal offence.

### Actions

- 3.3. Stephen Eckersley to take account of the decisions made above in drafting the procedure and to write a paper detailing the procedure for Management Board agreement on 2 November (deadline for papers close 22 October).
- 3.4. Simon Entwisle to ensure that trade unions are advised of the new procedures.

## **4. Proposed changes to the structure of the Enforcement department**

### Issue

- 4.1. Stephen Eckersley presented an update on proposals to convert temporary positions within the department to permanent ones, and to create a new team focused on anti-spam and PECR work. A further proposal for a team leader would be circulated to Executive Team members for agreement separately.
- 4.2. As background it was explained that the work of the department is increasing rapidly, is high profile in terms of political and press interest, and investigations have to be robust.
- 4.3. A brief oral update on Operation Spruce was also provided.

### Decisions

- 4.4. Executive Team commented on the achievements and professionalism of the Enforcement Department and thanked staff for their hard work.
- 4.5. The proposed changes were agreed.

#### Actions

- 4.6. Stephen Eckersley to circulate the team leader proposal to Executive Team members for agreement by 14 September.
- 4.7. Stephen Eckersley to provide an update for Executive Team members on Operation Spruce by 14 September, and for Management Board on 2 November (deadline for papers close 22 October).

## **5. Review of travel and subsistence and gift and hospitality policies**

#### Issue

- 5.1. The MOJ had undertaken a review across the department and its arms length bodies covering travel and subsistence and gift and hospitality policies. Minor recommendations had been made relating to the ICO's policies in this area. In response the ICO expenses claim guide was being clarified and the gifts and hospitality policy being reviewed.

#### Decisions

- 5.2. The review and the actions being taken to follow up on the recommendations were noted.

#### Actions

- 5.3. Executive Team members should provide Peter Bloomfield with any comments on the draft gifts and hospitality policy by 14 September prior to wider circulation to Leadership Group members and trade union side.

## **6. Increasing decision notice sign-off capacity**

#### Issue

- 6.1. Andrew Laing (Head of Performance Improvement), Paul Warbrick and Ben Tomes attended to present proposals for senior case offices to have delegated authority to sign off freedom of information decision notices.
- 6.2. It was explained that senior case officers had a lot of experience and knowledge of applying the Freedom of Information Act, and quality and efficiency would be improved if sign-off for some decision notices was delegated to them. There were some risks in doing so but it was considered that these could be covered off by ensuring various checks were made.

### Decisions

- 6.3. Executive Team agreed the proposal in principle. They identified that decision notices would need to be subject to some level of review and that there was work needed on the criteria for deciding which cases could be signed off at senior case officer level, and on the experience and skills required of individual senior case officers before sign-off could be delegated to them. Delegation of sign-off to any individual was a personal decision of the Commissioner.
- 6.4. Executive Team also welcomed this staff initiative.

### Actions

- 6.5. Andrew Laing and Graham Smith to devise the criteria for deciding which cases can be signed off at senior case officer level and the criteria that had to be met by individuals before sign-off could be delegated; by the 30 September.
- 6.6. Graham Smith to liaise with Christopher Graham to ensure agreement of the above matters by 30 September.

## **7. Commissioner's update on current issues**

### Issue

- 7.1. Simon Entwisle provided an update on finding a facilitator for the forthcoming Leadership Group planning day and the Management Board strategy day.
- 7.2. Graham Smith and David Smith provided an update on the recent meeting of Leadership Group members.
- 7.3. It was noted that decisions on matters such as the publication of the Triennial Review and advertising for the next Commissioner were pending.

### Actions

- 7.4. David Smith and Graham Smith to provide a note for Christopher Graham of the key points raised at the Leadership Group meeting.

## **8. Any other business**

- 8.1. There was discussion on a recent decision of the Upper Tribunal on a freedom of information request made of the ICO relating to the Motorman investigation.
- 8.2. The Executive Team was advised that complaint statistics, relating to the numbers of complaints made about specific data controllers, would be published shortly.
- 8.3. The final Government Property Unit decision on the future of the ICO presence in Wilmslow was still awaited.