Executive Team (ET) minutes

27 November 2023

Details of attendees are provided at the end of the minutes.

1.   Introductions and apologies

1.1.   Apologies for absence were received from Stephen Almond and Stephen Bonner.

2.   Declarations of interests

2.1.   No declarations of interests were made.

3.   Matters arising from the previous meeting

Minutes

3.1.   The minutes of the previous meeting had been approved as a correct record.
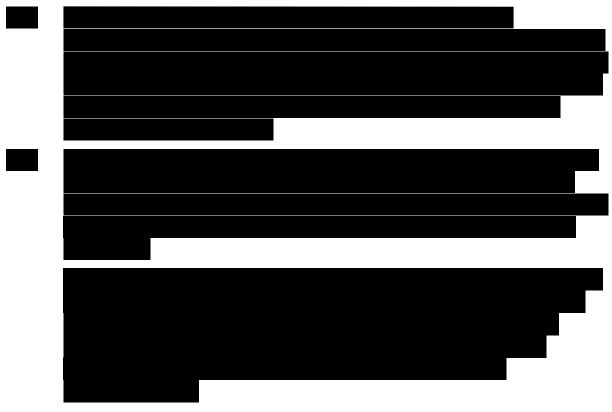
Actions

3.2.   The following updates regarding actions from previous meetings were provided:

- Jen Green provided an update with progress on development of internal guidance on application of section 132 would be circulated to ET later in the week. This workstream would be completed by the end of the year.

- ET members confirmed that the action in relation to mandatory cyber security training had been completed.

4.   Network Information Systems (NIS) regulatory approaches

4.1.   Kristina Holt presented a report discussing options for the ICO's NIS strategy, in light of the Department for Science, Innovation and Technology's (DSIT's) policy direction and current powers. Mihaela Jembei and Anulka Clarke also joined the meeting for the discussion.

4.2.   ET's discussion focused on the risks for the ICO in moving towards a more proactive approach to NIS regulation, in alignment with DSIT's preferred policy direction, in the absence of updated NIS legislation (with expanded powers to facilitate a more proactive approach) being forthcoming. ET agreed that a more proactive

approach to NIS regulation could be beneficial, but it required the appropriate regulatory tools to be available, supported by legislation. In the absence of such legislation, it would be very challenging for the ICO to assume the increased level of risk associated with a move to a fully proactive, risk based model, and that it was important to be clear that the risks arising with the failure to introduce legislation in support of this model should sit with government. ET agreed that there were degrees to which more proactive regulation could take place within existing legislation and funding, such as the new cyber assessment framework which was being developed, but these would represent a more incremental approach.

4.3. ET also commented that, if the ICO took a more proactive approach without the appropriate powers, it would create a significant reputational risk in the event of failures from any RDSPs, assigning the ICO responsibilities outside those which its powers provided for.

4.4. ET discussed the level of resources required to properly mitigate these risks, and the lack of certainty of how such resources would be funded in the long term given the government desire to move to a self-funded model, notwithstanding current commitment from DSIT to ensure sufficient funding. Without significant additional funding, this would risk spreading specialist resources even more thinly to deliver these responsibilities and create significant risks in the effectiveness of regulation.

4.5. ET also discussed the arrangements for registering RDSPs under NIS, and the lack of powers that the ICO had under current legislation to compel RDSPs to register. ET agreed that the fee levying powers within current legislation were not sufficient to ensure that NIS regulation could be self-funding, which was fundamental to proactive regulation.

4.6. ET also discussed how lack of registration by RDSPs may factor in to challenges in regulating such RDSPs, particularly whether regulation would necessarily need to focus on RDSPs who had registered, or whether it could encompass all RDSPs, with non-registration being seen as an indicator of higher risk. This latter option was likely to be more costly.

Decision

[REDACTED]

5. Litigation update

5.1. Claudia Berg, Rebekah Black and Malcolm Abraham presented a legally privileged report updating ET on current litigation matters.

6. Impact by design – approach to business planning for 2024/25

6.1. Jen Green presented a report setting out the proposed approach for business planning for 2024/25 and seeking agreement to the approaches suggested.

6.2. ET discussed the benefits of having specific "causes" to focus business planning around, and the importance of these being sufficiently well defined and focused and contributing towards the direction of the ICO's ongoing regulatory and organisational transformation.

6.3. ET also noted the importance of ensuring that the "causes" would contribute to the delivery of ICO 25 and its supporting strategies, rather than being another new type of strategy.

Decision

6.4. ET supported the proposed approach to business planning set out within the report. ET agreed that it would hold a separate session to identify the ICO-wide "causes" for business planning for 2024/25.

ACTION: ET to hold a separate session to identify key ICO-wide "causes" to be the focus of business planning for 2024/25. Due date: 18/12/23

7. Update on the work of the Regulatory Delivery Board (RDB)

7.1. Emily Keaney presented a report giving ET assurance on the work of RDB to mitigate key risks and deliver on key strategies over the last six months, and issues it will explore over the next six months.

7.2. ET noted the report.

8. Improving the accessibility and inclusivity of our internal products and services – reasonable adjustments process

8.1. Jen Green and Rob Holtom presented a report providing information and assurance to ET on implementation of reasonable adjustments and work to uplift an accessibility-first approach for the deployment of technology solutions.

8.2. ET discussed the benefits of inclusive design in ensuring that reasonable adjustments were required less frequently, which provided more satisfaction to staff and should be more efficient in the long term. ET also agreed that it was important to continue to maximise ambition for inclusivity, and as such any SLAs in this area needed to be as ambitious as possible to ensure that management provided staff with the best possible working experience.

8.3. ET also discussed the importance of describing the benefits of reasonable adjustment passports to staff, as well as providing assurance on how information provided as part of that process was used.

9. Monthly cyber security dashboard

9.1. ET noted the monthly cyber security dashboard.

10. Executive Team work programme

10.1. ET noted the work programme for future meetings.

11. Any other business

11.1. There were no items of other business.

12.   Key messages to staff

12.1. ET agreed that the key messages to staff from the meeting would be relating to NIS regulation and impact by design, as well as noting the update received regarding litigation matters.

ACTION: Laura Tomkinson to publish the key messages on Iris. Due date: 1/12/23

Attendance

Members

Angela Balakrishnan	Executive Director of Strategic Communications and Public Affairs
Claudia Berg	General Counsel
Emily Keaney	Deputy Commissioner (Regulatory Policy)
Jen Green	Executive Director, Strategy and Resources
John Edwards	Information Commissioner
Paul Arnold (Chair)	Deputy Commissioner (Deputy CEO and Chief Operating Officer)
Rob Holtom	Executive Director, Digital, Data, Technology (DDaT), Transformation and Delivery

Attendees

Andrew Rimmer	Private Secretary to John Edwards
Anulka Clarke	Director of Regulatory Design (for item 4)
David Squires	Private Secretary to Stephen Almond
Ellis Quinn	Private Secretary to Angela Balakrishnan
Farhana Ahmed	Private Secretary to Rob Holtom
Fiona Simkiss	Private Secretary to Jen Green
Izy Jude	Private Secretary to Stephen Bonner
Kristina Holt	Principal Lawyer (for item 4)
Laura Tomkinson	Group Manager, Corporate Governance
Malcolm Abraham	Head of Legal Services (Litigation) (for item 5)
Mariam Boakye-Dankwa	Head of Commissioner's Private Office
Mihaela Jembei	Director of Cyber (for item 4)
Rebecca Bradbury	Private Secretary to Paul Arnold
Rebekah Black	Director of Legal Services (Litigation) (for item 5)
Sarah Delahunty	Private Secretary to Emily Keaney
Tom Parkman	Private Secretary to Claudia Berg

Secretariat

Chris Braithwaite	Corporate Governance Manager