

Regulatory Committee minutes

6 June 2024

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

1. Introductions and apologies

- 1.1. Apologies for absence were received from Louise Byers, Peter Hustinx and Tracey Waltho.

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 Committee noted that there were no outstanding actions from previous meetings.

4. Better Regulatory Interventions (BRI) regulatory transformation programme

- 4.1. Paul Arnold presented a report setting out progress with the BRI programme. He explained that the new decision-making Board pilot had started in June, establishing a Regulatory Group and Delivery Group. Regulatory Group will have oversight of the development of the BRI programme.
- 4.2. The Committee agreed that the programme was working well, and teams were sharing knowledge and experience. The more robust regulatory processes were providing better metrics, allowing prioritising and therefore faster working, and enabling proactive work on the ICO's causes.
- 4.3. The number of open investigations had been reduced from 100 to 33. Of the first 63 cases, 33% were proactive investigations, and 40% of prioritised work related to a cause. The Committee noted the number of open investigations represented a moment in time:

investigations are being concluded faster, so throughput is higher and more effective.

- 4.4. The Committee commented that more work needs to be done in analysing the skills and resources needed for the number and type of investigations and enforcement actions undertaken both now and in the future.
- 4.5. The Committee discussed the impact of financial constraints on the programme's implementation and was informed that training and investment in CRM would need to be slowed and taper as the year progresses. Current plans are based on two thirds of the funding being available in 2024/25, but the programme would be one of the first to benefit from any additional income generation.
- 4.6. The Committee also discussed team engagement and plans for measuring the culture change that accompanies alterations to structures and processes, noting a number of ongoing cultural change initiatives will be overseen by Regulatory Group and Delivery Group.

5. [Current and emerging high profile regulatory activity](#)

5.1. **Supervision activity**

- 5.1.1. Stephen Bonner provided an oral update on current and emerging high profile supervision activity. He particularly highlighted work on the adtech and biometrics causes, and key cases.
- 5.1.2. The Committee discussed the ICO's capacity for dealing with cases where organisations require a high level of security clearance for investigators.
- 5.1.3. The Committee also discussed current resourcing and the staff allocation, noting the benefits of the focus on prioritisation, which had addressed many previous capacity problems. This has allowed more opportunities for proactive work; reaching out to organisations to highlight patterns we have seen, and ask if they have controls in place, to avoid data breaches occurring.

5.2. **Policy outputs**

- 5.2.1. Emily Keaney provided an oral update on current and emerging high profile policy outputs. She particularly highlighted the work being undertaken as a result of the DPDI Bill falling away, with work currently being undertaken to

understand the priorities of the major political parties, areas current stakeholders will be lobbying on, known civil service priorities, and key ICO concerns for discussion with the new government. In addition, she reported that other policy and international work continues under the constraints of the pre-election period.

5.2.2. The Committee discussed the ICO's election preparation, scenario planning and the requirements of civil service guidance; issues will be considered on a case-by-case basis by ET.

5.2.3. The Committee noted that the Commissioner had previously discussed deepfakes with the Electoral Commission and Ofcom.

5.3. Regulatory risk update

5.3.1. Stephen Almond provided an oral update on regulatory risk. He particularly highlighted a number of ongoing discussions - including upstream interventions related to the adtech and online tracking cause, consultation on the consent or pay model, third party cookies, the AI cause and the Children's Data cause.

5.4. Litigation deep dive

5.4.1. Claudia Berg and Rebekah Black provided a legally privileged report on current and emerging high profile litigation activity. The Committee discussed the update.

6. [Regulatory Committee effectiveness review](#)

6.1. Chris Braithwaite presented a report summarising the outcome of the Committee's recent effectiveness review.

6.2. The Committee discussed the findings, noting the importance of Committee members receiving more information about the international dimension of regulatory decisions, to ensure that where the ICO departs from the international norm, this is deliberate and transparent.

6.3. The Committee discussed how it could build subject matter depth, noting it would be useful to give members sight of the underlying ambitions and programme of work for the cause boards, to provide assurance on impact delivery.

ACTION: Emily Keaney to provide the Committee with details of the substantive focus areas for the children's privacy cause board. Due date: 20/6/24

ACTION: Stephen Almond to provide the Committee with details of the substantive focus areas for the AI and adtech cause boards. Due date: 20/6/24

- 6.4. The Committee discussed the constructive challenge provided by members. The Committee commented that it would be useful to hear about what the regulatory team is choosing not to focus on, in addition to priorities selected.

ACTION: Emily Keaney to provide the Committee with details of the considerations about what would not be included in the causes when the three were selected. Due date: 5/9/24

- 6.5. The Committee also noted that written reports or slides in advance of the meeting allowed for more considered responses from members.

ACTION: Stephen Almond, Claudia Berg, Stephen Bonner and Emily Keaney to provide a bullet point summary of their presentations in advance of future meetings. Due date: 28/8/24

7. [Any other business](#)

- 7.1. No items were raised.

8. [Messages for Management Board](#)

- 8.1. The Committee noted that the next Management Board meeting is on 16 September, after the next Regulatory Committee meeting.

- 8.2. Key messages from this meeting were the litigation discussion and the presentations which provided assurance that the right regulatory work is being done in the right way.

ACTION: Claudia Berg to forward the litigation slide deck to Management Board members. Due date: 20/6/24

ACTION: Stephen Almond, Stephen Bonner and Emily Keaney to circulate a bullet point summary of their oral presentations to this meeting to Management Board. Due date: 20/6/24

Attendance

Members

John Edwards (Chair)	Information Commissioner
David Cooke	Non-Executive Director
Jeannette Lichner	Non-Executive Director
Paul Arnold MBE	DCEO and Chief Operating Officer
Stephen Bonner	Deputy Commissioner (Regulatory Supervision)
Emily Keaney	Deputy Commissioner (Regulatory Policy)
Melissa Mathieson	Director of Regulatory Policy Projects (Chair of Policy Sub-Group)

Attendees

Claudia Berg	General Counsel
Rebekah Black	Director of Legal Service, Litigation
Stephen Almond	Executive Director, Regulatory Risk

Secretariat

Chris Braithwaite	Corporate Governance Manager
Fiona Wilcock	Corporate Governance Officer