

Minutes for Presidential Commission Into ICE Governance 29th April 2019

Attendees:

David Orr CBE Chair, Kris Barnett, Simone Bertram, Richard Fish, Philip Greenish CBE, Claire Oliver, David Porter, Paul Sheffield CBE, Jean Venables CBE, James Stewart OBE, D'Arcy Myers

Location:

ICE, One Great George St, Westminster.

Minutes of previous meetings on 20 February and 16 April agreed.

Actions

DO updated on Lord Robert Mair evidence session and meeting with ICE Board and Council. Referred to paper 04-03.

Three observers and Dr Andrew Purkis joined the meeting.

Dr Andrew Purkis OBE

AP introduced himself as the Chair or vice Chair of six UK charities and a former Charity Commissioner. He said he had some background knowledge of ICE governance, but he gives evidence as an independent specialist in trustee governance. AP then summarised his evidence paper, giving particular emphasis to the duty of trustees to advance the charitable purpose for the public benefit.

DO thanked AP for his presentation and highlighted AP's comments about transparency.

DO asked how much weight does the Charity Governance Code have? AP said that the Charity Commission will place more weight on it than purely advisory guidance. He referred to the Charity Commission statement that: 'the Commission has supported and endorsed the Code and encourages all Charities to read, follow and apply to, proportionate to their charity. While the Charity Commission takes the Code seriously, it does not actively check for compliance. However, non-compliance would be taken into consideration in the event of a Charity Commission enquiry.

DO asked about the difference with the Scottish code. AP said it was less detailed, and perhaps less ambitious, but broadly consistent. The underlying charity law is the same.

JV asked about to number of trustees on a trustee board and the view of the Charity Commission if this is exceeded. AP explained that it is guidance and they would be looking for a compelling rationale and persuasive reasons for a charity that has significantly exceeded the recommended board size of 'at least 5 and no more than 12'.

DP asked about the difference in effectiveness between a large and small board. AP said the really big problem with a large board is that becomes seriously unwieldy in taking decisions on increasingly demanding responsibilities. With a large number of people it becomes difficult to have a focussed discussion – there is a tendency for some members to make set speeches and it is difficult for all trustees to contribute meaningfully. If there is a higher-level council, the trustee board can be accountable to the council for the performance of the management of the charity. This would be at a strategic level, perhaps a yearly review. The relationship between the council and board is critical so that there is trust that each is doing what they are tasked with doing.

KB asked how you balance the charitable objective of public benefit and the interests of members. AP said that if the charity had no public benefit it should not be a charity. However, a membership organisation can support its members whilst still fulfilling a public benefit. It must be made clear to members that they are joining the organisation because of their desire to support the public benefit of the organisation. It would be a governance failure to allow the idea to circulate that the charity is solely for the benefit of the members.

PS asked about strategy setting by the board. AP said that in many charities it is solely the trustee board's decision. However, when there is a higher level council or assembly then it is appropriate for the council / assembly to have a major influence in the strategy.

PG asked about the legal responsibility of the Trustee board and resulting difficulty in making the board accountable to the council. AP said that the board must work to ensure that the council is appropriately briefed on the board's actions so that they are confident in the board. In the event of the council not being confident in the trustees it is possible for them to be voted off.

JV asked about transparency and the openness of board meetings to observers. AP said that each board needs to be able to have board only meetings to ensure a full and frank exchange of views. It will depend on the individual charity and there are also practical issues to be considered. If you have a two-tier system, the one that lends itself to open meetings is the higher level council as the topics are more strategic and 'big picture'.

James Stewart joined the meeting.

JV asked about management versus governance. AP said that trustees have an overview whilst staff do the operational delivery. The board has a different role to the council as it trying to keep an overview and monitor and they are the employers of the staff, not the council.

CO asked about examples of diversity of boards. AP said it is important to make sure you are as widespread in your search for trustees as possible, particularly under-represented groups. AP recommended that thought is given to ensuring board members are supported so that they can contribute effectively, particularly if they are not used to working in a board environment.

DP asked about the election to the board. AP said that this a balance for each membership charity to sort out so that sections of the membership are not excluded or over represented. It is really important that the board has leeway to bring in independent people where there are skills or experiences missing from the board.

RF asked about skills and experience on the board and placing reliance on staff expertise. AP said that that is possible but the board itself must be able to provide independent challenge.

DO asked about trustees being elected by a particular group and their expectations that they are there to represent that group. AP said that it is a gift to the charity when trustees use their perspectives, but they are not trustees to champion a particular view. Trustees sometimes assume that they must speak for vote in accordance with the wishes of the group they represent – but that is a misunderstanding. The best place for representatives is in an upper tier body. The board must be careful to ensure that they should be focused on their skill set rather than trying to be directly proportional of the beneficiaries.

Three observers and Dr Andrew Purkis left the meeting.

Paper 04-03 and Annexes – Stage 1 Consultation Responses

DO introduced the papers reporting the results of the Stage 1 consultation. The Annexes included all of the evidence and submission from: evidence sessions; meetings with ICE's main Boards and Committees; submission from the general ICE members; and responses from the ICE's Specialist Knowledge Societies.

The Commission members who led discussions with the main Boards and Committees summarised the discussions.

JS said that the level of transparency and communication could be improved right now.

JV commented that we have met with both the Council and Board but have not observed them in action.

JS and RF commented on the difficulty in getting focused responses to the review. This was agreed by JV and CO.

It was noted that there is an appetite for the Commission to offer to visit the UK regions.

The Commission discussed the key messages coming from the Stage 1 consultation and agreed to take these into account when considering its position on the emerging issues.

DO drew attention to Annex C and explained that he has responded to all communications from members.

JV said that some members had told her of their difficulty in finding information about the Commission's work. It was clarified that there has been a link to the Commission's web page pinned on the ICE home page since 14 January 2019; the Commission's work and a link to its web page have been mentioned in around 7 emails to members, including one direct to all members from the Commission chair, there was an article in the February issue of NCE; and when Presidential Commission is entered into the ICE search engine the web page comes up as the top result. JV undertook to feed this back to the relevant members.

DO suggested that all of the consultation material should be published with the Commission's interim report. JS led the Commission in agreeing to this proposal. It was also agreed that:

- Members should be individually asked to give explicit consent for their submission to be published (Annex C) - personal data would be redacted.
- A clear statement should precede the members submissions stating that the views are their personal view.
- The Commission should make the President aware of the content of the consultation responses and its intention to publish these with the interim report.

Paper 04-04 – Considering the Emerging Issues

The Commission discussed Paper 04-04 which highlighted the issues considered to be in scope by the Commission in its February meeting. The Commission considered in considerable detail the analysis of the issues and agreed positions and options for the various issues. These will be developed into an Interim Report for Consultation which will be considered at the June meeting of the Commission.

Philp Greenish left the meeting.

04-05 – Stage 3 Consultation – Initial Thoughts

It is likely that the Commission's interim report will be available at the start of August 2019. It would be supported by an Executive Summary and a Consultation Pack.

The Commission agreed that this should be published for consultation with ICE members, ICE Main Boards and Committees, and the Specialist Knowledge Groups. This would probably be in September to avoid the holiday period.

CO agreed to inform the June UKRAC meeting of the availability of the report, encouraging Regions to discuss it in advance of the October UKRAC meeting. The Commission agreed that we should offer Regions the opportunity for a Commission member to attend regional meetings if they so wished.

The Commission agreed the main method of consulting ICE members would be by an online survey. KB suggested a paper version for members not on email.

04-06 – Commission Work Plan

An additional meeting on Wednesday 23rd October 2019, 10:00 – 16:00hrs was agreed. DM to send meeting invitations.