

CORPORATE GOVERNANCE

SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND

**RESERVATION OF POWERS  
AND SCHEME OF DELEGATION**

Lead Officer: Head of Legal Services

Approved by the Board:

**SOCIAL CARE AND SOCIAL WORK IMPROVEMENT SCOTLAND ('THE CARE INSPECTORATE')**  
**RESERVATION OF POWERS AND SCHEME OF DELEGATION**

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## SCHEME OF DELEGATION AND RESERVATION OF POWERS

### 1 INTRODUCTION

This Scheme of Delegation and Reservation of Powers has been developed by Social Care and Social Work Improvement Scotland (hereinafter referred to as 'the Care Inspectorate') constituted under Section 44 of the Public Services Reform (Scotland) Act 2010 (hereinafter referred to as 'the Act').

The Management Statement and Financial Memorandum issued by the Scottish Executive's Sponsor Directorate and the Scottish Public Finance Manual have been taken into account and are reflected in the terms of the Scheme. The Care Inspectorate's Board will review the Scheme biennially.

#### 1.1 General

The purpose of this document is to set out those powers reserved to the Board of the Care Inspectorate for decision collectively at its Board meetings and those powers which are delegated to a Committee, Sub-Committee, officer or member. Paragraph 12(1) of Schedule 11 to the Act states that the Care Inspectorate may delegate any of its functions to the Chief Executive, any other employee or any of its committees, save that it may not authorise any other person to either approve annual reports and accounts or to approve any budget or financial plan. The Board of the Care Inspectorate remains accountable for all of its functions, notwithstanding any such delegation. The Care Inspectorate must ensure that it is satisfied that adequate arrangements have been made in respect of the accountability of the delegated body/individual and that adequate reporting arrangements are in place to allow it to oversee the exercise of those delegated powers. The Care Inspectorate has a statutory duty to co-operate with a range of other bodies in its work, and these are detailed in Appendix 1

#### 1.2 The Functions, Duties and Powers of The Care Inspectorate

The Act gives the Care Inspectorate the following functions, duties and powers:

- 1.2.1 To further the improvement in the quality of social services.
- 1.2.2 To provide information to the public about the availability and quality of social services.
- 1.2.3 To provide advice to the Scottish Ministers.
- 1.2.4 To provide advice when asked to do so, about any matter relevant to the functions of the Care Inspectorate to:

- (a) persons who provide, seek to provide, or may seek to provide social services;
  - (b) persons, or groups of persons, representing those who use, or are eligible to use, social services;
  - (c) persons, or groups of persons, representing those who care for those who use, or are eligible to use, social services;
  - (d) local authorities;
  - (e) health bodies; and
  - (f) such other persons, or groups of persons, as may be prescribed.
- 1.2.5** To consider applications for registration according to the terms of the Act and relevant regulations, and to grant or refuse registration on that basis.
- 1.2.6** To grant applications for registration subject to such conditions as the Care Inspectorate thinks fit to impose.
- 1.2.7** To consult on, prepare and keep under review, and from time to time, revise (with the approval of the Scottish Ministers) a plan for carrying out inspections of social services in accordance with best regulatory practice.
- 1.2.8** To carry out inspections of any social service, or the organisation or co-ordination of any social services in accordance with its inspection plan.
- 1.2.9** To take into account the national care standards and the Scottish Social Services Council's codes of conduct and practice in making decisions and in any appeals or criminal proceedings under the Act.
- 1.2.10** To issue condition notices, to vary or remove existing conditions on the registration of care services, or to impose new conditions when necessary.
- 1.2.11** To issue emergency condition notices to impose new conditions on the registration of care services where there is a serious risk to the life, health or well-being of any person.
- 1.2.12** To issue improvement notices when necessary to those providing registered services, requiring significant improvement in the provision of the care service, of a specified nature and within a specified period.
- 1.2.13** To cancel the registration of a registered service where at any time after the expiry of the period specified in an improvement notice, the service is not being carried out in accordance with the relevant requirements on the ground that any person is convicted of a relevant offence in relation to the

service; or for other prescribed reasons.

- 1.2.14** To take immediate court action seeking cancellation of registration in situations where unless the registration is cancelled there will be a serious risk to the life health or wellbeing of persons.
- 1.2.15** To establish, following consultation (including consultation with the Scottish Public Services Ombudsman) a complaints procedure for complaints about the provision of a care service.
- 1.2.16** The Care Inspectorate must, in exercising its functions, make arrangements which both secure continuous improvement in user focus in the exercise of its scrutiny functions, and demonstrate that improvement.
- 1.2.17** The Care Inspectorate is subject to a statutory duty under s114 of the Act, to co-operate and co-ordinate activity with a range of other bodies (specified in Appendix 1 hereto) and, where appropriate, with the Scottish Ministers with a view to improving the exercise of its scrutiny functions in relation to social work, child protection and children's services and care services, having regard to efficiency, effectiveness and economy.
- 1.2.18** The Care Inspectorate must, at the request of Scottish Ministers, and in accordance with directions given by and a timetable approved by them, conduct inspections of children's or other services, or both, jointly with a range of other persons or bodies (specified in Appendix 2 hereto).

**1.2.19 General Principles**

The Care Inspectorate is required to exercise its functions in accordance with the following principles:

The safety and welfare of all persons who use, or are eligible to use, care services are to be protected and enhanced;

The independence of those persons is to be promoted;

Diversity in the provision of care services is to be promoted with a view to those persons being afforded choice;

Good practice in the provision of social services is to be identified, promulgated and promoted.

**1.3 The Chair of The Care Inspectorate**

- 1.3.1** The Chair is personally responsible to the Scottish Ministers for ensuring that the Care Inspectorate's policies are compatible with those of the Scottish Ministers and for ensuring probity in the conduct of the Care Inspectorate's affairs. Communications between the Board and the Scottish Ministers shall normally be through the Chair. The Chair shall

ensure that the other Board members are kept informed of such communications.

- 1.3.2** The Chair has a particular responsibility for providing effective strategic leadership on the following matters:
- (a) formulating the Care Inspectorate's strategy for discharging its statutory duties;
  - (b) encouraging high standards of propriety and promoting the efficient and effective use of staff and other resources throughout the Care Inspectorate
  - (c) ensuring that, in reaching decisions, the Care Inspectorate takes proper account of guidance provided by Scottish Ministers or the Sponsor Directorate;
  - (d) representing the views of the Care Inspectorate to the general public; and
  - (e) annual assessment of the performance of individual Board members and the Chief Executive and reporting thereon to the Sponsor Directorate.
- 1.3.3** The Chair must ensure that all Board members of the Care Inspectorate, when taking up office, are fully briefed on the terms of their appointment and on their duties, rights and responsibilities, (including those arising from the Code of Conduct) and must ensure that they receive appropriate induction training, including training in the financial management and reporting requirements of public sector bodies and on any differences which may exist between private and public sector practice.
- 1.3.4** The Chair may nominate any Board member to represent the interests of the Care Inspectorate at any external meeting or event.
- 1.3.5** The Care Inspectorate may appoint one of its members to be Vice Chair. The Vice Chair (if one be appointed) shall exercise all of the functions of the Chair, during any period when the post of Chair shall be (for whatever reason) vacant, during any period of absence on the part of the Chair, either exceeding 28 days, or following intimation of incapacity by the Chair. In addition, the Vice Chair shall exercise all of the functions of the Chair whether for the purposes of a particular meeting or event, or generally, during a specified period, when requested to do so by the Chair. The member nominated as Vice Chair shall receive no additional remuneration in respect thereof. The term 'Chair' wherever occurring in this Scheme of Delegation and Reservation of Powers, and in the Care Inspectorate's Standing Orders shall be interpreted in accordance with this paragraph.

## **1.4 The Care Inspectorate's Board**

**1.4.1** The Board has corporate responsibility for ensuring that the Care Inspectorate fulfils its aims and objectives, for promoting the efficient and effective use of staff and other resources and for identifying and managing risk. To this end, and in pursuit of its wider corporate responsibilities, the Board shall, under the leadership of the Chair:

- (a) ensure that high standards of corporate governance are observed at all times, including establishing and using an audit committee to help the Board address the key financial and other risks facing the Care Inspectorate, and for which the Board retains responsibility;
- (b) establish the overall strategic direction of the Care Inspectorate within the policy and resources framework agreed with Scottish Ministers;
- (c) ensure that the Care Inspectorate operates within the limits of its statutory authority and any delegated authority agreed with its Sponsor Directorate, and in accordance with any other conditions relating to the use of public funds;
- (d) Scrutinise the work of its committees and hold them to account for their decision-making;
- (e) ensure that, in reaching decisions, the Care Inspectorate takes into account any guidance issued by the Sponsor Directorate;
- (f) ensure that equalities are central to the policies and practice of the Care Inspectorate;
- (g) ensure that Scottish Ministers are kept informed of any changes which are likely to impact on the strategic direction of the Care Inspectorate or on the attainability of its targets, and determine the steps needed to deal with such changes;
- (h) ensure that the Board receives and reviews regular financial information concerning the management of the Care Inspectorate; is informed in a timely manner about any concerns about the activities of the Care Inspectorate; and provides positive assurance to the responsible Scottish Executive Directorate that appropriate action has been taken on such concerns;
- (i) provide commitment and leadership in the development and promotion of Best Value principles throughout the organisation;
- (j) appoint (with the approval of Scottish Ministers) and monitor the performance of, the Chief Executive;



- (k) Individual Board members must at all times:
- (i) comply with the Care Inspectorate's Code of Conduct and with the rules relating to the use of public funds, conflicts of interest and confidentiality;
  - (ii) not misuse information gained in the course of their public service for personal gain or for political profit, nor seek to use the opportunity of public service to promote their private interests or those of connected persons or organisations;
  - (iii) act in good faith and in the best interests of the Care Inspectorate.

## **1.5 The Chief Executive**

**1.5.1** All powers of the Care Inspectorate which have not been reserved to its Board or delegated to a Committee or Sub-Committee of the Board shall be exercised on behalf of the Care Inspectorate by the Chief Executive. This Scheme of Delegation identifies which functions he/she shall perform personally and which functions may be delegated to directors within the organisation, together with the accompanying reporting arrangements.

**1.5.2** The Chief Executive of the Care Inspectorate is designated by the Principal Accountable Officer of the Scottish Administration as the Care Inspectorate's Accountable Officer in accordance with Section 15 of the Public Finance and Accountability (Scotland) Act 2000.

**1.5.3** As the Care Inspectorate's Accountable Officer, the Chief Executive is personally responsible for safeguarding the use of public funds within the stewardship of the Care Inspectorate for which he/she has charge; for ensuring propriety and regularity in the management of those public funds and for the day-to-day operations and management of the Care Inspectorate. He/she should act in accordance with the terms of the Management Statement and Financial Memorandum and within the instructions and guidance in the Scottish Public Finance Manual and other instructions and guidance issued from time to time by Scottish Ministers. In particular, he/she should act in accordance with the Memorandum to Accountable Officers of Other Public Bodies.

The Chief Executive, as Accountable Officer, has a duty to secure Best Value, which includes the concepts of good corporate governance, performance management and continuous improvement.

Members of the Care Inspectorate's Board (including the Chair) must not give the Chief Executive instructions which conflict with his/her duties as the Care Inspectorate's Accountable Officer. Should such instructions be issued, the Chief Executive is required to send a copy to the Auditor

General.

- 1.5.4** As the Care Inspectorate's Accountable Officer, the Chief Executive shall, in particular:
- (a) Advise the Board on the discharge of its responsibilities.
  - (b) Ensure that appropriate financial systems are in place and applied and that procedures and controls are reviewed from time to time to ensure their continuing relevance and reliability, especially at times of major changes.
  - (c) Sign the annual accounts - and the associated governance statement - for the Care Inspectorate, and in doing so accept personal responsibility for their proper presentation as prescribed in legislation and/or in the relevant Accounts Direction issued by the Scottish Ministers. .
  - (d) Ensure that proper financial procedures are followed and that accounting records are maintained in the form prescribed for published accounts..
  - (e) Ensure that the public funds for which he / she is responsible are properly managed and safeguarded, including independent and effective checks of any cash balances in the hands of any official.  
.
  - (f) Ensure that assets for which he/ she is responsible such as land, buildings or other property, including stores and equipment, are controlled and safeguarded with similar care, and with checks as appropriate.  
.
  - (g) Ensure that, in the consideration of policy proposals relating to the resources for which you have responsibilities as Accountable Officer, all relevant financial considerations, including any issues of propriety, regularity or value for money, are taken into account, and where appropriate brought to the attention of the body.
  - (h) Ensure that procurement activity is conducted in accordance with the requirements in the Procurement section of the Scottish Public Finance Manual.
  - (i) Ensure that delegation of responsibility is accompanied by clear lines of control and accountability together with reporting arrangements.

- (j) Ensure that effective management systems appropriate for the achievement of the body's objectives, including financial monitoring and control systems, have been put in place.
- (k) Ensure that risks, whether to achievement of business objectives, regularity, propriety or value for money, are identified, that their significance is assessed and that systems appropriate to the risks are in place in all relevant areas to manage them.
- (l) Ensure that arrangements have been made to secure Best Value as set out in the Scottish Public Finance Manual. Ensure that managers at all levels have a clear view of their objectives, and the means to assess and measure outputs, outcomes and performance in relation to those objectives  
  
Ensure that managers at all levels are assigned well defined responsibilities for making the best use of resources (both those consumed by their own commands and any made available to third parties) including a critical scrutiny of outputs, outcomes and value for money.
- (m)
- (n) Ensure that managers at all levels have the information (particularly about costs), training and access to the expert advice which they need to exercise their responsibilities effectively.
- (p)
- (q) Take action as set out in paragraphs 5.1 to 5.4 of the Memorandum to Accountable Officers of Other Public Bodies if the Care Inspectorate or its Chair, is contemplating a course of action involving a transaction which the Chief Executive considers would infringe the requirements of propriety (financial or otherwise) or regularity, or does not represent prudent or economical administration or efficiency or effectiveness.
- (r) Give evidence when summoned before Committees of the Scottish Parliament on the use and stewardship of public funds by the Care Inspectorate.

- (s) Ensure that an effective complaints procedure is established and made widely known, including reference to the Scottish Public Services Ombudsman where applicable, and inform the Directorate Accountable Officer about any complaints about the Care Inspectorate accepted by the Scottish Public Services Ombudsman for investigation, and about the Care Inspectorate's proposed response to any subsequent recommendations from the Ombudsman.
- (t) Approve and review any Memoranda of Understanding or protocols with other scrutiny bodies and organisations.
- (u) Ensure that the Care Inspectorate's banking arrangements are consistent with the provisions contained in the Scottish Public Finance Manual, and review these arrangements every two years.

The Chief Executive may delegate the day-to-day administration of his/her Accountable Officer responsibilities to other employees of the Care Inspectorate. However, he/she shall not assign absolutely to any other person any of the responsibilities set out in this document.

#### **1.5.5 Directors' Power to Delegate their own Delegated Powers**

In so far as powers are delegated to any director or officer, he or she shall be free to further delegate those powers to any member of his/her staff, but the director or officer shall remain accountable to the Chief Executive and to the Board for all aspects of the exercise of those powers.

The Operations Scheme of Delegation and any other Scheme of delegation put in place by a Director is to be operated in accordance with the Standing Orders, the Management Statement and Financial Memorandum, the Financial Regulations and all other corporate governance procedures relevant to the Care Inspectorate.

#### **1.5.6 Absence of directors or officers to whom powers have been delegated**

In the absence of a director or officer to whom powers have been delegated, those powers shall be exercised by that director's or officer's superior or by another director or by an officer appointed by the Chief Executive or another director to exercise those powers. If the Chief Executive is absent, powers delegated to him/her may be exercised by a Director acting on behalf of Chief Executive, taking advice as necessary, from other appropriate directors and officers.

## **2 RESERVATION OF POWERS TO THE CARE INSPECTORATE**

### **2.1 Reserved Powers**

The Care Inspectorate must determine those matters on which decisions are reserved, i.e. decisions which are reserved to the Board of the Care Inspectorate in formal session for decision. The reserved matters are set out in paragraphs 2.2 to 2.8 below.

## **2.2 General Enabling Provision**

The Board sitting in formal session may determine any matter it wishes, within its statutory powers, specifically including the following matters:

## **2.3 Regulation and Control**

**2.3.1** The approval of Standing Orders (“SOs”), the Code of Conduct for members, the Reservation of Powers and Scheme of Delegation and the Financial Regulations, including any alterations, deletions or additions thereto; the agreement of changes to the Management Statement, Financial Memorandum, or any similar document setting out the relationship between the Care Inspectorate and the Scottish Ministers or the Sponsor Directorate.

**2.3.2** Requiring and receiving declarations of interests from members of the Board.

**2.3.3** To determine any conflict arising between a member’s declared interests and those of the Care Inspectorate by reference to the Care Inspectorate’s Code of Conduct and Standing Orders.

**2.3.4** Approval of the disciplinary procedure for directors/officers of the Care Inspectorate, including any alterations, deletions or additions thereto.

**2.3.5** Approval of the Care Inspectorate’s statutory Complaints Procedure.

**2.3.6** Receiving reports from Committees and taking appropriate action thereon.

**2.3.7** Establishing terms of reference and reporting arrangements for all Committees and Sub-Committees and to approve changes thereto.

**2.3.8** Ratifying and homologating any emergency action which would otherwise have been contrary to this Reservation of Powers and Scheme of Delegation, which has been taken by the Chair, Chief Executive or Director deputising for the Chief Executive.

## **2.4 Appointments**

**2.4.1** The establishment and dissolution of any Committees or Sub-Committees of the Board, including the appointment of Committee conveners.

**2.4.2** The appointment, and co-option in terms of paragraph 3.4.3 hereof, of

members to any Committee or Sub-Committee of the Board, save that the Chair may at any time appoint additional members to, or remove members from, a Committee or Sub-Committee of the Board, subject to ratification of such appointment or removal at the next full meeting of the Board, provided that such appointment or removal does not make the Committee or Sub-Committee concerned non-compliant with its Terms of Reference. In the event that such an appointment or removal shall not be ratified by the Board at its next full meeting, the appointment or removal shall be of no effect, save for the period between its making and its consideration by the Board when it shall be regarded as having had full force and effect, and any decision taken by any Committee or Sub-Committee concerned during the period between the appointment or removal concerned and its consideration by the Board shall have full force and effect,.

## **2.5 Policy Determination**

**2.5.1** The approval, subject to any guidance or direction from Scottish Ministers, of the organisational structure of the Care Inspectorate or its strategic management or organisational development policies, unless otherwise stated within this Scheme of Delegation.

## **2.6 Strategy, Corporate Plan and Budget**

**2.6.1** The approval of the statement of strategic aims and objectives of the Care Inspectorate within its Corporate Plan.

**2.6.2** The approval of the Corporate Plan, Annual Report and Accounts and budget for each financial year.

## **2.7 Specific Matters Requiring Board Approval**

**2.7.1** The introduction or discontinuance of any significant activity or operation.

**2.7.2** Proposals to let single-tender or restricted contracts including any which could be seen as novel or contentious or which exceed the delegated limit set out in the Financial Memorandum.

**2.7.3** Any expenditure for any purpose which is or might be considered novel or contentious, or which has or could have significant future cost implications, including on staff benefits.

**2.7.4** Any significant change in the scale of operation or funding of any initiative or particular scheme previously approved.

**2.7.5** Any change of policy or practice which has wider financial implications (e.g. because it might prove repercussive among other public sector bodies) or which might significantly affect the future level of resources required.

**2.7.6** All individual contracts of a capital nature that exceed £25,000 (exclusive of VAT) and which either are not included in the approved capital programme or exceed the expenditure limit agreed in the approved capital programme.

**2.7.7** Any changes in the fees chargeable to registered care services (where regulations allow the Care Inspectorate to set these)

**2.7.8** The matters set out at paragraphs 2.7.2 - 2.7.5 above are also subject to Sponsor Directorate authorisation requirements as set out in the Appendix to the Financial Memorandum or any authorisation requirements which may from time to time apply by virtue of any document which may replace the Financial Memorandum.

## **2.8 Audit Arrangements**

**2.8.1** To approve the appointment of internal auditors to the Care Inspectorate.

**2.8.2** To note the receipt of the annual management letter from the external auditor and to note the actions of and to consider and where appropriate, adopt, the recommendations of, the Resources Committee and the Audit Committee.

**2.8.3** To note the receipt of the annual report from the internal auditor and the action taken where appropriate on the recommendations by the Resources Committee and the Audit Committee.

## **3 DELEGATION OF POWERS TO COMMITTEES AND SUB-COMMITTEES**

**3.1** The Board may delegate responsibility for specified matters to Committees which may, with the approval of the Board, or as provided for in this Scheme, further delegate specified matters which fall within their terms of reference to Sub-Committees.

**3.2** Details of the Committees and Sub-Committees established by the Care Inspectorate and their terms of reference are set out at Section 4 of this document.

### **3.3 Interpretation**

**3.3.1** In any situation of uncertainty, it is for the Chair to determine which Committee or Sub-Committee is empowered to exercise authority which has been delegated by the Board.

### **3.4 Provisions common to all Committees and Sub-Committees**

#### **3.4.1 Authority**

All Committees and Sub-Committees are authorised by the Board to undertake any activity within their terms of reference. A Committee (and any Sub-Committee thereof) must comply with any directions given to it by the Board of the Care Inspectorate. Any Committee or Sub-Committee may seek information it requires from any other Committee and from any employee of the Care Inspectorate through the appropriate director or officer and all employees are expected to co-operate with any such request.

- 3.4.2** All Committees and Sub-Committees are authorised by the Board to obtain legal or other independent professional advice, subject to the approval of the Resources Committee or the Board (or in a case of urgency, the Chair and at least one other Board member, who must certify that the situation is one of urgency such that it would be impracticable for the matter to be considered by either the Resources Committee or the Board, at the next meeting of either) in respect of any resources required.
- 3.4.3** All Committees and Sub-Committees may, subject to the approval of the Board in terms of paragraph 2.4.2 above, seek to secure the attendance of persons who are not members of the Board of the Care Inspectorate but hold relevant experience or skills which are considered necessary. Any remuneration payable to any such person co-opted as a member of a Committee shall not exceed such allowances as may be specified by Scottish Ministers.
- 3.4.4** Persons co-opted to any Committee or Sub-Committee in accordance with paragraph 3.4.3 shall not be regarded as members of the Board of the Care Inspectorate and for the avoidance of doubt, shall not be regarded as members of the Committee to which they are co-opted, but as advisers who are not vested with voting rights and whose attendance shall not be counted in establishing a quorum.
- 3.4.5** The terms of reference of all Committees shall be subject to periodic review whether at the instance of the Committee concerned (subject to any proposed alterations being approved by the Board) or by the Board. Such reviews shall be carried out at intervals not exceeding two years.

**3.5 Quorum**

- 3.5.1** The quorum of the Board of the Care Inspectorate shall be as provided in Standing Order 28. The quorum of each Committee and Sub-Committee of the Care Inspectorate shall be as specified in the terms of reference of that Committee or Sub-Committee.

**3.6 Reporting Mechanism**

- 3.6.1** Minutes shall be drawn up of meetings of the Care Inspectorate's Board



and Committees. The minutes referred to in this clause shall be prepared, distributed and published in accordance with Standing Orders 23, 24 and 25.

#### **4 TERMS OF REFERENCE OF COMMITTEES AND SUB COMMITTEES OF THE CARE INSPECTORATE**

**4.1** The following Committees and Sub-Committees of the Care Inspectorate are established and shall operate as set out in paragraphs 5-9 below.

#### **5 STRATEGY AND PERFORMANCE COMMITTEE**

##### **5.1 Terms of Reference**

**5.1.1** To monitor and consider the overall strategic direction of The Care Inspectorate within the policy, planning and resources framework determined by Scottish Ministers, in accordance with the principles of Better Regulation and to make recommendations to the Board as to the discharge of its functions in establishing the overall strategic direction of The Care Inspectorate in terms of paragraph 1.4.1(b) hereof.

**5.1.2** To exercise strategic oversight of development and performance throughout the organisation and to report to the Board thereon.

**5.1.3** To provide leadership in the development and promotion of efficient, effective, economic and intelligence-led use of Board resources in the areas falling within its remit.

**5.1.4** To monitor progress and performance in all functions of The Care Inspectorate, including, but not limited to:

- Considering and making recommendations to the Board as to the approval of, The Care Inspectorate's Corporate Plan, and monitoring the performance of The Care Inspectorate against its Corporate Plan and Operational Plans
- The development of The Care Inspectorate's change programmes.
- Approving and monitoring progress against The Care Inspectorate's Communications Strategy
- Approving and monitoring performance against The Care Inspectorate's strategy for participation of key stakeholders in its work (particularly people who use social services and their carers)
- To approve and monitor performance against any plan or plans related to the development and implementation of The Care Inspectorate's scrutiny improvement function
- To approve and monitor performance against any plan or plans related to the discharge of The Care Inspectorate's statutory Duty of Co-operation

- To monitor the performance of The Care Inspectorate's Duty of Co-operation with other scrutiny bodies
- To approve and monitor performance against The Care Inspectorate's Intelligence Strategy
- To approve and monitor performance against The Care Inspectorate's Public Reporting Strategy

and to report to the Board on all of the foregoing.

- 5.1.5** To identify themes and trends in all scrutiny activity and in the provision of social care, social work, child protection and children's services and report thereon to the Board of The Care Inspectorate making recommendations as to what the strategic response of The Care Inspectorate should be.
- 5.1.6** To receive reports from the Complaints Sub-Committee, to keep under review the operation of The Care Inspectorate's Complaints Procedure and to make necessary recommendations for change to the Board.
- 5.1.7** To receive reports on the entering into of relevant Memoranda of Understanding with relevant bodies.
- 5.1.8** To advise on the development of the Corporate Plan and make recommendations to the Board on any draft Corporate Plan.

**5.2 Membership**

- 5.2.1** The Strategy and Performance Committee shall comprise the Chair and not less than five nor more than six of the currently appointed members of The Care Inspectorate's Board.

**Quorum**

**5.3**

- 5.3.1** The quorum of the Strategy and Performance Committee shall be the Chair of The Care Inspectorate or any substitute, as provided for in terms of Standing Order 30 of The Care Inspectorate's Standing Orders and in addition not less than three members of the Committee.

**5.4 Frequency**

- 5.4.1** The Strategy and Performance Committee shall meet at least 4 times per

year.

## **5.5 In Attendance**

Chief Executive  
Directors of Inspection  
Director of Strategic Development  
Head of Legal Services

## **5.6 Equality and Diversity**

The Care Inspectorate is committed to promoting equality and diversity. The Committee will at all times conduct its business in a way which reflects good practice in relation to equality and diversity and which complies fully with the requirements of the Equality Act 2010.

## **6.1 RESOURCES COMMITTEE**

### **6.1.1 Terms of Reference**

#### **General**

**The functions of the Committee are:**

- 6.1.2** To consider and where appropriate, approve (subject to paragraphs 2.2-2.8 hereof) all strategies and policies on matters relating to the oversight of arrangements for the planning, management and control of the resources of the Care Inspectorate, including, but not limited to, the development and implementation of the following key resourcing strategies:- Estates; Finance; Human Resources; Administration; ICT; Procurement; Organisational Development; Employee Development, the development and implementation of their key supporting policies and the development, evaluation and review of the Care Inspectorate's business processes to ensure that they operate in accordance with the principles of Better Regulation and Best Value.
- 6.1.3** To consider and report on the resource aspects and implications of the Corporate Plan and to make a recommendation to the Board as to whether to approve the annual budget.
- 6.1.4** To review the financial control of the Care Inspectorate by monitoring actual and forecast expenditure and income and report to the Board on any actual or projected variance therein.
- 6.1.5** To provide leadership in the development and promotion of efficient, effective, and economic and intelligence-led use of Board resources in the

areas falling within its remit.

## **6.2 Specific Resourcing Issues**

- 6.2.1** To approve cases for early retirement, severance or redundancy where there is a cost to the Care Inspectorate.
- 6.2.2** To approve changes to the permanent staffing establishment of the Care Inspectorate.
- 6.2.3** To make recommendations to the Board on the level of fees and other charges to be levied by the Care Inspectorate.
- 6.2.4** To consider and report to the Board on any other resource matters which the Board may delegate or refer from time-to-time.
- 6.2.5** To consider and if appropriate, approve the procurement procedures of the Care Inspectorate and to consider and approve procurement contracts not otherwise reserved to the Board or delegated to officers.

## **6.3 Membership**

- 6.3.1** The Resources Committee shall consist of a Convener and not less than five nor more than six members, appointed by the Board.

## **6.4 Quorum**

- 6.4.1** The quorum of the Resources Committee shall be the Convener of the Committee or any substitute, as provided for in terms of Standing Order 30, and in addition not less than three members of the Committee.

## **6.5 In Attendance**

- 6.5.1** Chief Executive  
Director of Corporate Services  
Other Directors as appropriate  
Other Officers as appropriate

## **6.6 Frequency**

- 6.6.1** The Resources Committee shall meet at least four times per year.

## **6.7 Equalities**

- 6.7.1** The Care Inspectorate is committed to promoting equalities. The Committee will at all times conduct its business in a way which reflects good practice in relation to equalities and which complies fully with the requirements of the Equality Act 2010.

**7            AUDIT COMMITTEE**

**7.1        Terms Of Reference**

**7.2        General**

**7.2.1**     To consider, approve, and report to the Board on:

- the internal control arrangements of the Care Inspectorate.
- the external and internal audit arrangements.
- the evaluation of risk management and business continuity planning arrangements, including (but not limited to) receiving, considering and making recommendations to the Board upon, the Care Inspectorate's risk register and the measures identified therein for management of the identified risks, and receiving, considering, and making recommendations to the Board upon, the Care Inspectorate's business continuity and disaster recovery plans.
- Consideration of and advice to the Board on the development of Key Performance Indicators to underpin the Corporate Plan

**7.2.2**     To provide leadership in the development and promotion of efficient, effective, economic and intelligence-led use of Board resources in the areas falling within its remit.

**7.3        Specific Audit Services**

**7.3.1**     To appoint, and periodically review the appointment of, the Care Inspectorate's internal auditors, approve their terms of reference, and ensure that the audit provision meets the standard expected by the Scottish Executive and the external auditors.

**7.3.2**     To consider and approve the internal auditors' annual audit plans and long term strategic audit plans and to consider and note the external auditors' audit plans.

- 7.3.3** To receive, consider, and if appropriate, approve, periodic progress reports from the internal and external auditors outlining progress against audit plans to identify any issues arising and to make recommendations as to how they should be addressed.
- 7.3.4** To consider any audit reports submitted by both the internal and external auditors, taking action as appropriate. This may include meeting with the auditor in private when required.
- 7.3.5** To receive, consider, and if appropriate, approve the internal auditor's annual report.
- 7.3.6** To receive and consider the external auditor's annual report and to make recommendations thereon to the Board.
- 7.3.7** To consider, draft, and make recommendations to the Board upon, key performance indicators, quality indicators and monitoring measures in respect of the Care Inspectorate's activities, financial and non-financial.
- 7.3.8** To consider and thereafter annually review the arrangements in place for the systematic monitoring of the Care Inspectorate's internal control procedures, including risk management and business continuity planning and to report to the Board thereon.
- 7.3.9** To receive, consider and make recommendations to the Board upon, the Care Inspectorate's risk register and the measures identified therein for management of the identified risks, and to receive, consider, and make recommendations to the Board upon, the Care Inspectorate's business continuity and disaster recovery plan.

**7.4 Membership**

- 6.4.1** The Audit Committee shall consist of a Convener and not less than five nor more than six members, appointed by the Board.

**7.4 Quorum**

- 7.4.1** The quorum of the Audit Committee shall be the Convener of the Committee or any substitute, as provided for in terms of Standing Order 30, and in addition not less than three members of the Committee.

**7.5 In Attendance**

- 7.5.1** Chair  
Chief Executive  
Director of Corporate Services  
Other Directors as appropriate  
Other Officers as appropriate

**7.6 Frequency**

**7.6.1** The Audit Committee shall meet at least four times per year.

**7.7 Equalities**

**7.7.1** The Care Inspectorate is committed to promoting equalities. The Committee will at all times conduct its business in a way which reflects good practice in relation to equalities and which complies fully with the requirements of the Equality Act 2010.

**8 APPEALS SUB-COMMITTEE**

**8.1 Terms Of Reference**

**8.1.1** The Appeals Sub-Committee is a sub-committee of the Resources Committee and will:

- (1) Determine appeals from members of staff, other than the Chief Executive and Directors, in relation to any grievance concerning their terms and conditions or in relation to disciplinary matters. Appeals by the Chief Executive or a Director will be considered by an ad-hoc Committee of the Board, which will consist of any three members of the Board and which will follow a procedure which reflects, so far as is practicable, that of the Appeals Sub-Committee.
- (2) Conduct formal hearings in accordance with procedures laid down by the Care Inspectorate to enable the settlement of differences and disputes between the Care Inspectorate and its employees.

**8.1.2** The Committee will provide leadership in the development and promotion of efficient, effective, economic and intelligence-led use of Board resources in the areas falling within its remit.

**8.2 Membership**

**8.2.1** The membership of the Appeals Sub-Committee shall consist of all current members of the Resources Committee, and shall have as its convener such one of its members as the Appeals Sub-Committee may from time to time appoint to that role.

**8.2.2** Officers are not members of the Appeals Sub-Committee but may attend to give assistance, to present reports, and offer advice.

**8.2.3** The Appeals Sub-Committee will not consider any matter which

has already been considered by another Committee or the Board.

**8.3 Quorum**

**8.3.1** The quorum of the Appeals Sub-Committee shall be three members of the Committee

**8.4 Frequency**

As required.

**8.5 Equalities**

**8.5.1** The Care Inspectorate is committed to promoting equalities. The Committee will at all times conduct its business in a way which reflects good practice in relation to equalities and which complies fully with the requirements of the Equality Act 2010.

**9 REMUNERATION COMMITTEE**

**9.1 Terms Of Reference**

The Remuneration Committee will:

**9.1.1** Approve the Care Inspectorate's pay remit for all employees in accordance with the current public pay policy guidance.

**9.1.2** Receive reports on the monitoring of the performance of the Chief Executive, Directors and such other senior employees as may be determined from time to time by the Chief Executive, in consultation with the Director of Resources and the Chair.

**9.1.3** Provide a review forum in any situation where a Director disagrees with the outcome of their annual performance development review. Such a review shall follow, as far as practicable, the procedures set down for a hearing of the Appeals Sub-Committee.

**9.1.4** Oversee arrangements where an employee's contract of employment is to be terminated in exceptional circumstances which do not fall within the terms of reference of the Resources Committee, as advised by the Chief Executive.

**9.1.5** Provide leadership in the development and promotion of efficient, effective, economic and intelligence-led use of Board resources in the areas falling within its specific remit.



**9.2 Membership**

**9.2.1** The Committee shall be comprised of the Chair of the Care Inspectorate, the Convener of the Resources Committee (or duly appointed substitute) and the Convener of the Audit Committee (or duly appointed substitute).

**9.2.2** In Attendance:

Chief Executive  
Director of Corporate Services

**9.2.3** The Chief Executive and Director of Corporate Services shall not be in attendance where their own remuneration, performance and terms of service are the subject of discussion.

**9.3 Quorum**

**9.3.1** The quorum of the Remuneration Committee is all its members.

**9.4 Frequency**

**9.4.1** As required.

**9.5 Equalities**

**9.5.1** The Care Inspectorate is committed to promoting equalities. The Committee will at all times conduct its business in a way which reflects good practice in relation to equalities and which complies fully with the requirements of the Equality Act 2010.

**10 COMPLAINTS SUB- COMMITTEE**

The Complaints Sub-Committee is a sub-committee of the Strategy and Performance Committee. Where a complaint has been investigated by officers of the Care Commission or the Care Inspectorate and (in the case of complaints made to the Care Commission prior to 1 April 2011) falls to the Care Inspectorate to conclude in terms of the Public Services Reform (Scotland) Act 2010 (Health and Social Care) Savings and Transitional Provisions Order 2011 and the complaint has not been upheld (including complaints partially upheld) the complainant has the right, in terms of the Care Inspectorate's complaints procedure, to seek to have the manner in which the complaint was investigated (and not its merits), reviewed by the Complaints Committee. A Director may also choose to refer any request for review received from a complainant dissatisfied with the manner in which a complaint was investigated, direct to the Complaints Sub-Committee.

**10.1 Terms Of Reference**

- 10.1.1** To review the process of investigation and resolution in dealing with complaints referred to it by complainants who are dissatisfied following the completion of Stage 2 of the Care Inspectorate's Complaints Procedure.
- 10.1.2** To review the process of investigation and resolution in dealing with complaints referred to it directly by a Director.
- 10.1.3** To consider whether the facts established in the investigation process support its outcome, by reference to the terms of the Complaints Procedure, and having regard to whether there has been a defect in the manner in which the complaint has been investigated, which has had a material effect on the investigation's outcome. Having done so, to either confirm the outcome of the complaint investigation, or direct that it shall be set aside and the complaint remitted to operational staff to be investigated further and/or considered afresh.
- 10.1.4** To provide a written determination to the complainant setting out the process followed in reviewing the complaint, the matters considered and the conclusion reached by the Complaints Sub-Committee, with any additional comments considered appropriate.
- 10.1.5** To advise the complainant of any further right of redress appropriate to their complaint e.g. the Scottish Public Services Ombudsman or the Mental Welfare Commission.
- 10.1.6** To monitor the outcomes of, and processes employed in the investigation of, complaints against the Care Inspectorate, and the extent to which those outcomes and the outcomes of complaints reviewed by the Complaints Sub-Committee have been taken account of by, and have informed the practice of, the Care Inspectorate, and to report thereon periodically (and in any event, no less than annually) to the Board
- 10.1.7** To provide leadership in the development and promotion of efficient, effective, economic and intelligence-led use of Board resources in the areas falling within its remit.
- 10.1.8** To monitor and contribute to the development of the Care Inspectorate's Complaints Procedure particularly in relation to the use of intelligence to inform risk.

**10.2 Membership**

- 10.2.1** The Complaints Sub-Committee shall comprise a convener and two vice-conveners, (either of whom may chair meetings of the Committee in the absence of its convener), and two members of the Care Inspectorate's Board, co-opted by the convener or a vice convener as a member for the

purposes of the consideration of an individual complaint or complaints whether against a regulated care service or against the Care Inspectorate; and such members shall be regarded (for the purposes of considering the individual complaint or complaints in respect of which they have been co-opted) as members of the Complaints Committee and shall be entitled to participate in its proceedings and to vote.

**10.2.2 In Attendance**

Head of Registration, Complaints and Legal Services  
A Care Inspectorate solicitor  
Comments and Complaints Co-ordinator  
Other relevant Directors or officers

**10.3 Quorum**

**9.3.1** The quorum of the Complaints Committee shall be its convener, or one of its vice conveners and no less than two members (including members co-opted in terms of para 10.2.1).

**10.4 Frequency**

**10.4.1** As required.

**10.5 Equalities**

**10.5.1** The Care Inspectorate is committed to promoting equalities. The Committee will at all times conduct its business in a way which reflects good practice in relation to equalities and which complies fully with the requirements of the Equality Act 2010.

**11 THE CARE INSPECTORATE SCHEME OF DELEGATION TO OFFICERS**

**11.1 Scheme of Delegation to Officers**

**11.1.1** The Care Inspectorate's Financial Regulations set out in some detail the financial responsibilities of the Chief Executive and the Director of Corporate Services.

**11.1.2** The Care Inspectorate shall produce an Operations Scheme of Delegation addressing the further delegation to officers of matters delegated by the Care Inspectorate to Directors in relation to specific day to day decision making and the discharge of statutory scrutiny functions detailed in the Act. The Operations Scheme of Delegation shall be approved by the Chief Executive

**11.1.3** In addition, each Director is responsible for delegation within his/her area(s) of responsibility. He/she should produce a scheme of delegation

relating to matters within his/her area of responsibility not specifically addressed in the Operations Scheme of Delegation, for approval by the Chief Executive.

**APPENDIX 1**

**Persons and Bodies with whom the Care Inspectorate is subject to a Duty of Co-operation (Para 1.2.17) In terms of s114 of, and Schedule 20 to, the Act**

Accounts Commission for Scotland

Healthcare Improvement Scotland

Her Majesty's Chief Inspector of Constabulary and Her Majesty's Inspectors of Constabulary appointed under s33 of the Police (Scotland) Act 1967

Her Majesty's Chief Inspector of Fire and Rescue Authorities, Her Majesty's Inspectors of Fire and Rescue Authorities and Assistant Inspectors of Fire and Rescue Authorities appointed under s43 of the Fire (Scotland) Act 2005

Her Majesty's Chief Inspector of Prisons for Scotland

Her Majesty's Chief Inspector of Prosecution in Scotland

Her Majesty's Inspectors of Education

Mental Welfare Commission for Scotland

**APPENDIX 2**

**Persons and Bodies with whom Scottish Ministers may request that the Care Inspectorate undertakes Joint Inspections of Children's or Other Services (Para 1.2.18), in terms of s115(6) of the Act**

Healthcare Improvement Scotland

Her Majesty's Chief Inspector of Constabulary and Her Majesty's Inspectors of Constabulary appointed under s33 of the Police (Scotland) Act 1967

Her Majesty's Chief Inspector of Prisons for Scotland

Her Majesty's Chief Inspector of Prosecution in Scotland

Her Majesty's inspectors of Education (to become part of SEQIA on 1 July 2011)

Mental Welfare Commission for Scotland

Any Special Health Board