



Delegation

by the

Board of the
Health Service Executive

to the

Chief Executive Officer

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Introduction

The Health Service Executive (“the HSE”) has responsibility for managing and delivering, or arranging to be delivered, health and personal social services in Ireland. In accordance with Section 7 of the Health Act 2004 (the “Principal Act”) the HSE’s objective is *‘to use the resources available to it in the most beneficial, effective and efficient manner to improve, promote and protect the health and welfare of the public’*.

In accordance with Part 3B of the Principal Act (as inserted by Section 9 of the Health Service Executive (Governance) Act 2019 (the “2019 Act”) a Board was appointed as the governing body of the HSE with the legal authority to perform the functions of the HSE. The Board will reserve specific functions to it (see Appendix 1 - *Reserved Functions of the Board*) and delegate to the Chief Executive Officer all of its remaining functions.

Delegation to the Chief Executive Officer

Pursuant to Part 3B Section 16P (4) of the Principal Act (as inserted by Section 9 of the 2019 Act) the Board resolved at its meeting on the 24th February 2023 to delegate to Bernard Gloster (who has been appointed Chief Executive Officer pursuant to Part 4A Section 21A of the Principal Act (as inserted by Section 10 of the 2019 Act) the following functions: -

- *The performance of the functions of the HSE as specified in the Health Act 2004 as amended together with all legislation listed in Schedule 1 and Schedule 3 of the Health Act 2004 and any regulations made on foot of such legislation and any other enactment or regulation which has issued or may issue from time to time insofar as such functions directly or indirectly relate to, are connected with or ancillary to the function of the HSE, within the geographical area of the HSE as defined by Section 67 of the Health Act 2004, with the exception of the functions reserved by the Board unto itself as referenced above.*

The performance of the functions delegated by the Board to the Chief Executive Officer shall be undertaken in accordance with the objectives of the Government or any Minister of the Government (to the extent that those policies and objectives may affect or relate to the functions of the HSE) and in accordance with all relevant policies, protocols, clinical and care standards, directions, circulars, codes of practice and guidelines and documents of a similar nature specified by the HSE or that has issued or may issue from time to time by the HSE or any Government Department (to the extent that such Departmental policies, protocols, etc., may affect or relate to the functions and objectives of the HSE) including but not limited to:

- *The Sláintecare Implementation Strategy for the time being in force.*
- *The approved Performance Accountability Framework for the HSE for time being in force.*
- *The HSE Delegation Framework Policy document for the time being in force.*
- *The HSE Code of Governance (2021) and the Code of Practice for the Governance of State Bodies (2016) or any Codes amending, updating or replacing same.*
- *The provisions of the HSE's Corporate Plan for the time being in force.*
- *The general provisions of the approved annual National Service Plan for the time being in force.*
- *The Charities Act 2009, the Ethics in Public Office Act 1995, and the Standards in Public Office Act 2001, as may be amended from time to time, together with all regulations made on foot of such legislation and all ancillary and related guidelines, codes and circulars relating to Ethics in Public Office.*
- *The EU Procurement Regulations for the time being in force.*

- *The Guidelines for the Appraisal and Management of Capital Expenditure Proposals in the Public Sector (Department of Finance) 2005), as amended or replaced from time to time.*
- *The HSE Protocol for the Acquisition and Disposal of Property for the time being in force.*
- *The HSE National Financial Regulations for the time being in force.*
- *The statutory object of the HSE to use the resources available to it in the most beneficial, effective, and efficient manner to improve, promote and protect the health and welfare of the public. (Section 7 of the Principal Act).*
- *The statutory requirement of the HSE to maintain proper standards of integrity, conduct and concern for the public interest (Section 25 of the Principal Act as amended by Section 13 of the 2019 Act).*
- *The statutory obligation of the HSE as a public body, in the performance of its functions, to promote equality, prevent discrimination and protect the human rights of the organisation's employees, service users and those of any person effected by the organisation's policies and plans (Section 42 of the Irish Human Rights and Equality Commission Act 2014).*
- *The ongoing requirement for legal authority and efficiency in relation to all decisions.*
- *All other relevant legislation relevant to the performance by the HSE of its statutory functions and achievement of its statutory object.*

This delegation is effective until formally revoked in whole or part in accordance with Part 3B Section 16P (5) of the Principal Act (as inserted by Section 9 of the 2019 Act). The Board may amend this delegation and the delegation shall continue in force as amended from the effective date of such amendment, save where specifically provided for otherwise.

In accordance with Part 4A Section 21G of the Principal Act (as inserted by Section 10 of the 2019 Act) where the Chief Executive Officer is absent from duty or from the State or has been suspended from office or is, for any other reason, unable to perform the functions of Chief Executive Officer, or the office of the Chief Executive Officer is vacant, the Board may appoint such other employee of the HSE to perform the functions of Chief Executive Officer. An employee acting in the position of Chief Executive Officer will have the same delegated authority and accountability as the Chief Executive Officer for the duration of the acting period.

Any dispute as to whether or not a function has been delegated to the Chief Executive Officer will be decided by the Board of the HSE.

Subject to compliance with the provisions of Part 4A Section 21D of the Principal Act (as inserted by Section 10 of the 2019 Act) the Chief Executive Officer may delegate any or all of his/her delegated functions to employees of the HSE, and may authorise the sub-delegation to or by employees of the HSE. The Board may issue directions in writing to the Chief Executive Officer in respect of his delegation powers and the Chief Executive Officer shall comply with such directions.

We hereby revoke Delegation Order number 12/19.

This delegation is effective from the 6th March 2023.

Signed for and on behalf of the Board by:

Chairperson

Date:

Appendix 1 -
Reserved Functions of the Board

The Board shall be responsible for the following:

Monitoring of Performance

- The Board shall satisfy itself that appropriate systems, procedures and practices are in place to achieve the Executive's object, for the internal performance management and accountability of the Executive in respect of the Executive's –
 - Performance of its functions,
 - Achieving objectives in accordance with the corporate plan, and delivery of health and personal social services in accordance with this Act, and
 - To enable compliance with the policies (whether set out in codes, guidelines or other documents, or any combination thereof) of the Government or a Minister of the Government to the extent that those policies may affect or relate to the functions of the Executive,
 - Establish and implement arrangements for the management of the performance of the Chief Executive Officer.

- The Board shall receive regular reports from the Chief Executive Officer and/or his/her Senior Management Team and the Board Committees to include the following:
 - Progress against the Corporate, Service & Capital Plans – to include an explanation of significant variances and proposed corrective actions, if necessary, to ensure achievement of the relevant plan
 - Provision of advice to the Minister for Health in relation to the HSE's functions, (Section 7 (4) (c) of the Principal Act)
 - Reports on compliance with the Code of Governance requirements of the HSE.

Plans (Part 7 of the Principal Act.)

- The adoption (and amendment) of the Corporate Plan (Section 29) (for subsequent approval by the Minister for Health) detailing the key objectives of the HSE for the following three years including:
 - the key objectives and the strategies for achieving these objectives
 - the manner in which it is proposed to measure the achievements of these objectives and
 - the uses for which it is proposed to apply resources.

- The adoption (and amendment) of the Service Plan (Sections 31 & 32 of the Principal Act as amended by Section 18 of the 2019 Act)) (following approval of the corporate plan and for subsequent approval by the Minister for Health) setting out the type and volume of health and personal social services to be provided by the HSE and the financial budget to support such services. If a Service Plan is not submitted, the Minister may direct the Chief Executive Officer to submit one in which case it will be deemed to have been adopted by the Board (Section 31 of the Principal Act (as amended by Section 18 of the 2019 Act)).

- The adoption (and amendment) of the Capital Plan/Capital Investment Framework, (CIF), setting out planned capital projects over a 5 year period, for subsequent approval by the Minister for Health (as part of the approval process for the Service Plan) and with the consent of the Minister for Finance.

- The submission of superannuation schemes to the Minister for Health (Section 23 of the Principal Act (as amended by Section 12 of the 2019 Act)).

Codes

- The approval of a Code of Governance and all subsequent updates, as and when required (for subsequent approval by the Minister for Health) in accordance with Section 35 of the Principal Act (as amended by Section 21 of the 2019 Act) that includes:

- the guiding principles applicable to the HSE as a public body having functions relating to health and personal social services,
- the structure of the Executive including the roles and responsibilities of the Board and the Chief Executive Officer,
- the methods to be used to bring about the integration of health and personal social services,
- the processes and guidelines to be followed to ensure compliance with the reporting requirements imposed on the HSE by or under the Act,
- the HSE's internal controls, including its procedures relating to internal audits, risk management, public procurement and financial reporting,
- the nature and quality of service that persons being provided with or seeking health and personal social services can expect.

The approval of Codes of Conduct (together with all updates) to be issued for the guidance of members of a committee of the Board but who are not members of the Board, employees, advisers and employees of advisers (Section 25(3) of the Principal Act (as amended by Section 13 of the 2019 Act).

Approval of Annual Report of Performance (Sections 36 & 37 of the Principal Act)

- The adoption of the Annual Financial Statements, (Section 36).
- The adoption of the Annual Report (Section 37).

Within four months of its year-end the Board shall approve and submit to the Minister for Health an Annual Report covering inter alia:

- A general statement of the health and social services provided by the HSE in the period under review,
- A report on the implementation of the Corporate, Service and Capital plans for the year,
- The annual financial statements of the HSE,
- Statement confirming compliance with relevant obligations under tax law,

- Arrangements for implementing and maintaining adherence to the code of governance and,
- A report on the complaints procedure (Section 55 of the Principal Act).

Ongoing Approvals

- Changes to the corporate structure of the HSE,
- Approval of contracts in excess of €10 million in respect of individual projects initiated under the Capital Plan/Capital Investment Framework (CIF) (following approval of the individual project by the Minister for Health and with the consent of the Minister for Finance),
- Approval of expenditure exceeding that previously approved in the Capital Plan (CIF) (following approval of the Minister for Health),
- Approval of contracts in excess of €10 million entered into directly by the HSE, with the exception of Service Level Agreements and /or Grant Agreements with health service providers and any other contracts which fall within the terms of Section 38 (as amended by Section 105 of the Health Act 2007) & 39 of the Principal Act,
- Appointments of External Auditors (other than the Comptroller & Auditor General),
- Appointment to Audit Committee, (Section 40 H (2) of the Principal Act (as substituted by Section 23 of the 2019 Act),
- Creation and dissolution of Committees of the Board (Part 3B Section 16T of the Principal Act (as inserted by Section 9 of the 2019 Act),
- Appointment of Members to Committees of the Board (Part 3B Section 16T of the Principal Act (as inserted by Section 9 of the 2019 Act),
- Delegation of Board functions to the Chief Executive Officer (Part 3B Section

16P (4) of the Principal Act) (as inserted by Section 9 of the 2019 Act) and directions to the Chief Executive Officer in relation to the delegation and sub delegation of these functions by the Chief Executive Officer, (Part 4A Section 21D(1)(b) of the Principal Act (as inserted by Section 10 of the 2019 Act)),

- The designation and approval by the Board of a panel of employees suitable to as act as Acting Chief Executive Officer (from which panel one employee may be selected by the Board as Acting Chief Executive Officer), to perform the functions of the Acting Chief Executive Officer under Part 4A Section 21G of the 2004 Act (as inserted by Section 10 of the 2019 Act), in accordance with the Board's resolution dealing with this issue. (An employee of the Executive appointed by the Board from time to time to act as Acting Chief Executive Officer has the same delegated authority as the substantive post-holder for the duration of the acting period.)
- Approval of bank arrangements, including the opening of all new bank accounts,
- Acceptance of gifts in excess of €100,000,
- Approval of arms length acquisitions of land and property wherein the transaction value exceeds €2 million exclusive of VAT and Service Charges (i.e. Category 2 Property Transactions* (Section 6(2) of the Principal Act),
Note: For this purpose, the value of the lease is deemed to be the annual rental costs payable pursuant to the lease multiplied by the duration in years of the lease.
- Approval of arms length disposals of land and property wherein the transaction value exceeds €2 million exclusive of V.A.T. and Service Charges (i.e. Category 2 Property Transactions*) (Section 6(2) of the Principal Act),
Note: For this purpose, the value of the lease is deemed to be the annual rental costs payable pursuant to the lease multiplied by the duration in years of the lease.
- Approval of any acquisitions and disposals of land and property which are below market value (Section 6(2) of the Principal Act) excluding the authority to grant (1) tracts of land not exceeding 25 sq. meters in area owned by the HSE to the Electricity Supply Board for the provision of sub-stations / transformers or to the

National Roads Authority / County Councils or other State or Semi-State Statutory Bodies for road improvements in the interests of public safety or (2) requests for wayleaves to permit services to cross over or under HSE lands. (HSE Board Decision No. 12.03(09/2009).

Note: Land and Property transactions are classified into two categories:

Category 1 ≤ €2 million, which may be approved by the Chief Financial Officer or the Director of Health Business Services

Category 2 > €2 million, which must be approved by the Board.