

Chapter 2

Health Service Executive Governance

This section outlines the legal basis on which the HSE was established and its governance.

2.1 Object and Function of the HSE

The HSE was established by Ministerial order on 1 January 2005 in accordance with the provisions of the Health Act 2004, as amended by the Health Service Executive (Governance) Act, 2013 as the single body with statutory responsibility for the management and delivery of health and personal social services to the population of Ireland. Section 7 of the Health Act, 2004 (as amended) states that the objective of the Executive 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.*

2.2 How the HSE is Funded

From the time of the establishment of the HSE in 2005 the HSE held the “Vote” and the CEO and later the Director General were the Accounting Officers. With effect from the 1st January 2015 this is no longer the case. The Health Service Executive (Financial Matters) Act 2014 provided for the disestablishment of the Vote of the Health Service Executive from January 2015. From that date the funding of the HSE is mainly through the Vote of the Office of the Minister for Health to the HSE. The HSE continues to collect the income it generates through statutory charges, superannuation contributions and other miscellaneous income.

In accordance with Section 7 of the Health Service Executive (Financial Matters) Act 2014 the Minister determines the maximum amount of net non-capital expenditure that may be incurred by the Executive. The Minister is required to notify the HSE of this determination no later than 21 days after the publication by the Government of the Estimates for the Public Services more commonly known as the Abridged Estimates Volume, or AEV. The legislation also allows the Minister to adjust a Net Determination for the HSE in the course of the year.

2.3 Corporate Values

The Health Service Executive Corporate Plan 2015-2017 – *Building a high quality health service for a healthier Ireland*, sets out the Vision, Mission and Values for the organisation. The Vision – “A healthier Ireland with a High Quality Health Service valued by all” is the ambition of the Health Service over the three year life of the Corporate Plan. The core values of Care, Compassion, Trust and Learning are key values of the organisation. The HSE requires all staff to live their Values every day when interacting and dealing with service users, colleagues and members of the public.

The HSE’s values are:

Care

- ▶ To provide care that is of the highest quality
- ▶ To deliver evidence based best practice
- ▶ To listen to the views and opinions of our patients and service users and consider them in how we plan and deliver our services

Compassion

- ▶ To show respect, kindness, consideration and empathy in our communication and interaction with people
- ▶ To be courteous and open in our communication with people and recognise their fundamental worth
- ▶ To provide services with dignity and demonstrate professionalism at all times

Trust

- ▶ To provide services in which people have trust and confidence
- ▶ To be open and transparent in how we provide services
- ▶ To show honesty, integrity, consistency and accountability in decisions and actions

Learning

- ▶ To foster learning, innovation and creativity
- ▶ To support and encourage our workforce to achieve their full potential
- ▶ To acknowledge when something is wrong, apologise for it, take corrective action and learn from it

2.4 Role of the Directorate as the Governing Body of the HSE

Following the enactment of the Health Service Executive (Governance) Act on 25 July 2013, the HSE Directorate was established as the governing body of the HSE.

Section 16C of the Health Service Executive (Governance) Act 2013 specifies the role of the Directorate as follows:

- 16C. (1) The Directorate is the governing body of the Executive with authority, in the name of the Executive, to perform the functions of the Executive.*
- (2) Subject to any directions that may be issued by the Minister under subsection (8), the Directorate may delegate to the Director General any of the Executive's functions.*
- (3) If a function of the Executive is delegated to the Director General under subsection (2), the delegation shall remain in force until the Directorate revokes the delegation.*
- (4) The Directorate shall notify the Minister in writing of any delegation made under subsection (2) and of any revocation of such delegation.*
- (5) The Directorate is accountable to the Minister for the performance of its functions and those of the Executive and the Director General shall account to the Minister on behalf of the Directorate for the performance by the Directorate of its functions and those of the Executive.*
- (6) The Director General shall account to the Minister pursuant to subsection (5) through the Secretary General of the Department of Health.*
- (7) The Directorate shall inform the Minister of any matter which it considers should be brought to the attention of the Minister.*
- (8) The Minister may issue a direction to the Directorate in relation to the delegation of the Executive's functions to the Director General.*

The Directorate has collective responsibility as the governing authority for the HSE and the authority to perform the HSE's functions. The Directorate is accountable to the Minister for the performance of the HSE's functions and its own functions as the governing authority of the HSE. The Director General as the Chairman of the Directorate accounts on behalf of the Directorate to the Minister. This creates a direct line of accountability for the Directorate to the Minister.

The Health Service Executive (Governance) Act 2013 allows the Minister for Health to issue directions to the HSE on the implementation of Ministerial and government policies and objectives and to determine priorities to which the HSE must have regard in preparing its service plan. The HSE must comply with directives issued by the Minister for Health under the Acts.

To provide assistance and advice in relation to the performance of its functions, the Directorate has established a number of Committees including an Audit Committee and a Risk Committee, each of which comprises one appointed Director and external nominees. Directorate committees act in an advisory capacity and have no executive function.

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The Audit Committee is appointed by the Directorate in accordance with Section 40H of the Health Act 2004 (as amended) (ref. section 17 of the Health Service Executive (Governance) Act, 2013). The focus of the Audit Committee, in providing advice to the Directorate and the Director General, is on the regularity and propriety of transactions recorded in the accounts, and on the effectiveness of the system of internal financial controls operated by the HSE

The Risk Committee is established in accordance with the provisions of section 16M of the Health Service Executive (Governance) Act, 2013. The Risk Committee operates under agreed Terms of Reference and focuses principally on assisting the Directorate in fulfilling its duties by providing an independent and objective review of non-financial risks.

In accordance with statutory requirements the Directorate meets in each of at least 11 months of the year. The Directorate also holds regular meetings with the Department of Health's Management Advisory Committee and the Ministers at the Department of Health.

The Terms of Reference for these Committees are available in the Procedures and Business of the Directorate document is attached at Appendix 1, or via the following link:

www.hse.ie/eng/about/Who/directoratemembers/codeofgovernance/governance.html

2.5 Membership of the Directorate

The membership of the Directorate consists of (a) the person holding the position of Director General and (b) such other numbers of directors as the Minister appoints.

The Director General is an ex-officio member of the Directorate and is the Chairperson. Other members appointed to the Directorate by the Minister are referred to as "appointed directors".

Section 16A(2) Health Act 2004 (as amended) specifies that the number of persons appointed to the Directorate as "appointed directors" at any time shall not be fewer than 2 and not be greater than 8.

Section 16A(3) identifies that persons appointed as directors must be a person who is an employee of the Executive holding the grade of national director or other grade in the Executive which is not less senior than the grade of national director. In accordance with Section 16A(5) persons appointed to the grade of national director on a temporary or acting basis can hold the position of membership of the Directorate for as long as that appointment exists.

Appointed directors hold office as a member of the Directorate for a term of 3 years and can be re-appointed by the Minister for a second or subsequent term of office.

Section 16A(4) provides that upon an "appointed director" ceasing employment with the Executive in a grade of national director that the person shall cease to be an appointed director.

The Directorate currently consists of nine members; the Director General as an ex-officio member, and eight Appointed Directors as follows:

- ▶ Deputy Director General
- ▶ Chief Financial Officer
- ▶ National Director Quality Improvement
- ▶ National Director Acute Hospitals
- ▶ National Director Mental Health
- ▶ National Director Primary Care
- ▶ National Director Social Care
- ▶ National Director Health and Wellbeing

2.6 Delegation of Functions – Directorate, Director General and National Directors

The HSE exercises a wide range of statutory functions which may have significant implications both for individuals and for the public generally. The legislation recognises that neither the Directorate nor the Director General could exercise all of these functions personally and provide for a formal system of delegations under Sections 16C and 16H of the Health Act 2004 (as amended).

The HSE has in place a Delegations Policy Framework which sets out the framework and supporting policy guidelines that underpin good governance regarding the system of delegation of statutory functions throughout the HSE.

The objective of the system of delegations is to ensure that relevant managers/personnel in the HSE are delegated/sub-delegated appropriate legal authority to carry out statutory functions.

The key delegation schedules are set out as follows:

1. Delegation by the Directorate to the Director General;
2. Delegation by the Director General to the National Directors;
3. Sub-delegation by the National Directors to Senior Service Managers e.g. Hospital Group CEOs, Community Health Organisation Chief Officers, Assistant National Directors etc.;
4. Sub-delegation by Senior Service Managers to other appropriate employees in respect of certain specified functions.

2.7 Reserved Functions of the Directorate

The Directorate has reserved the following functions for its approval:

- ▶ Major strategic developments provided for in the Corporate Plan, Service Plan, and Capital Plan
- ▶ Expenditure decisions over an agreed financial threshold
- ▶ Codes of Standards and Behaviour, Codes of Conduct
- ▶ Monitoring of performance on a monthly basis
- ▶ Approval of Annual Report of Performance and Financial Statements
- ▶ Schedule of ongoing approvals.

The full list of reserved functions of the Directorate is contained in the Procedures and Business of the Directorate document attached at Appendix 1, or via the following link:

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The Directorate meetings deal with the reserved functions and other key areas. Immediately following the Directorate meetings, the non-Directorate members of the Leadership Team join and all Leadership Team business is then conducted. The Leadership Team also holds a monthly meeting to consider the HSE's reform agenda, and report on progress in this area.

In practice the Directorate delegates to the Director General all the functions of the HSE, except for the specific functions it reserves to itself.

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2.8 General Functions of Director General

In addition to his functions as a member and Chairperson of the Directorate, the Director General's functions under Section 16G of the Health Service Executive (Governance) Act 2013 include carrying on, managing and controlling generally the administration and business of the Executive. Under Section 34A of the Health Service Executive (Financial Matters) Act 2014, the Director General has the statutory responsibility to ensure that the HSE operates within its budget, both in respect of capital and non-capital expenditure. It also obliges the Director General to notify the Minister if actions being undertaken by the Executive are likely to lead to it breaching its financial limits.

The Director General was the Accounting Officer for the HSE up until 31 December 2014. The Vote of the HSE was disestablished on 1 January 2015, in accordance with the provisions of the Health Service Executive (Financial Matters) Act, 2014 and the Vote transferred to the Department of Health. The legislation provides that the Director General is accountable to the Committee of Public Accounts in respect of the HSE's annual financial statements and any other reports made by the Comptroller and Auditor General.

The Director General is accountable to the Minister on behalf of the Directorate for the performance by the Directorate of its functions and those of the Executive. The Director General accounts through the Secretary General of the Department of Health.