

## Authority Paper

<b>Committee:</b>	Authority
<b>Meeting Date:</b>	9 <sup>th</sup> December 2009
<b>Agenda Item:</b>	8
<b>Paper Number:</b>	530
<b>Paper Title:</b>	Revision of Standing Orders
<b>Author:</b>	David Gomez (Legal)
<b>For information or decision?</b>	Decision
<b>Resource Implications:</b>	<i>De Minimis</i>
<b>Implementation</b>	<i>1<sup>st</sup> January 2010</i>
<b>Organisational Risk</b>	The Authority is required to review its standing orders annually. Good corporate governance requires the Authority to have clear standing orders in place.
<b>Recommendation to the Committee:</b>	<p><i>The Authority should:</i></p> <ul style="list-style-type: none"> <li>a) <i>consider the proposals to amend Annex A as set out in the paper, and approve them with any required amendments, to come into force on 1<sup>st</sup> January 2010;</i></li> <li>b) <i>consider the draft Standing Orders at ANNEX 1 to this paper, and approve them with any required amendments, to come into force on 1<sup>st</sup> January 2010; and.</i></li> <li>c) <i>consider the draft Code of Conduct at ANNEX 2 to this paper, and approve the code with any required amendments, to come into force on 1<sup>st</sup> January 2010.</i></li> </ul>
<b>Evaluation</b>	<i>The Authority will review its Standing Orders on an annual basis.</i>
<b>Annexes to this paper</b>	<p>ANNEX 1: draft new Standing Orders</p> <p>ANNEX 2: draft new Code of Conduct for Authority Members (Annex E to the Standing Orders)</p>

## Section 1: Background

1. The Authority operates within a corporate governance framework which includes:
  - a) the Human Fertilisation and Embryology Act 1990 (as amended) and secondary legislation;
  - b) Standing Orders and annexes approved by the Authority;
  - c) Standing Financial Instructions and Financial Procedures approved by the Authority; and
  - d) the management statement agreed between the Authority and its sponsor department, the Department of Health.
  
2. The current Standing Orders were first approved by the Authority on 15th May 2003, and have subsequently been amended piecemeal over the years. The most recent amendment was on 9<sup>th</sup> September 2009 when the Authority approved amendments to incorporate changes to the Human Fertilisation and Embryology Act 1990 (as amended) and changes to the way in which the Authority's licensing functions are discharged post 1<sup>st</sup> October 2009.
  
3. There are currently four annexes to the Standing Orders:

Annex	Title	Date of last amendment	
Annex A	Standing Committees Established by the Authority and Their Terms of Reference	17 <sup>th</sup> December 2008	
Annex B	Instrument of Delegation in Respect of Authority Licensing Functions	9 <sup>th</sup> September 2009	
Annex C	Protocol for the Conduct of Meetings of the Authority's Executive Licensing Panel	9 <sup>th</sup> September 2009	
Annex D	Protocol for the Conduct of Meetings of the Licence Committee and Research Licence Committee	9 <sup>th</sup> September 2009	

4. Paragraph 12.3 of the current Standing Orders requires that the Authority should review its Standing Orders at least annually. Whilst the Standing Orders have been amended in part this calendar year, no formal review of the whole Standing Orders has yet been conducted by the Authority.
5. At the last Authority meeting in September 2009, it was agreed that the Standing Orders would be considered by the Authority in December 2009, together with any recommendations made by the Audit and Governance Committee.
6. Paragraph 4.25 of the current Standing Orders provides:
 

“ **Variation and amendment of Standing Orders**  
 4.25 These Standing Orders shall be amended only if:-

  - a notice of motion has been given; and
  - no fewer than half the total members vote in favour of amendment; and
  - at least two-thirds of the Members are present; and
  - the variation proposed does not contravene a statutory provision or direction made by the Secretary of State. “
7. A notice of motion was included with the agenda and papers sent to members in advance of the meeting on 9<sup>th</sup> December 2009.

### **Consideration by Audit and Governance Committee**

8. On 25<sup>th</sup> November 2009, the Authority’s Audit and Governance Committee considered draft proposals to:
  - a) amend the Committee terms of reference in Annex A of the Standing Orders;
  - b) comprehensively overhaul the Standing Orders themselves; and
  - c) introduce a new Annex E (Code of Conduct for Authority Members).
9. The Audit and Governance Committee had before it the current versions of the Standing Orders and Annexes, and the proposed amendments and new drafts. The Committee recommended that the proposals be considered for approval by the Authority, with some minor changes.
10. A draft new set of Standing Orders and a draft new Annex E to the Standing Orders are enclosed at **Annex 1 and 2** to this paper respectively. These drafts fully incorporate the

changes recommended by the Audit and Governance Committee.

11. Annexes B to D of the current Standing Orders were considered and approved by the Authority at its last meeting in September 2009. No changes are proposed to these annexes and they have not been included with this paper.
12. The Audit and Governance Committee also considered amendments to the Standing Financial Instructions and Financial Procedures, and commented on the Management Statement.

## Section 2: Proposed Amendments

### ***Amendments to Annex A***

13. Annex A to the current Standing Orders was considered and approved by the Authority in December 2008.

14. At its meeting on 25<sup>th</sup> November 2009, the Audit and Governance Committee recommended that Annex A be amended by inserting four paragraphs at the beginning of the document, as set out below:

***“1. Standing Committees of the Authority***

*1.1 The Authority shall maintain the following standing committees concerned with licensing:-*

- a) Licence Committee;*
- b) Research Licence Committee; and*
- c) Appeals Committee.*

*1.2 The membership and procedures of the Licence and Research Licence Committees (other than when considering representations made under section 19(4) of the Human Fertilisation and Embryology Act 1990) are set out in the Protocol for the conduct of meetings of the Licence and Research Licence Committees (Annex D to the Authority’s Standing Orders).*

*1.3 The membership and procedures of the Licence and Research Licence Committees when considering representations made under section 19(4) of the Human Fertilisation and Embryology Act 1990 are set out in the Human Fertilisation and Embryology (Procedure for Revocation, Variation or Refusal of Licences) Regulations 2009 (as amended).*

*1.4 The membership and procedures of the Appeals Committees are set out in the Human Fertilisation and Embryology (Appeals) Regulations 2009.”*

15. At its meeting on 25<sup>th</sup> November 2009, the Audit and Governance Committee recommended that the terms of reference of the Audit and Governance Committee set out in Annex A should be amended to include the receipt of reports:

- a) from the Tender Panel; and
- b) about all consultancy contracts made by the Authority.

16. At its meeting on 25<sup>th</sup> November 2009, the Audit and Governance Committee recommended that the terms of reference of the Remuneration Committee set out in Annex A should be amended to include the review, moderation and approval of the remuneration of the Chief Executive and Directors.

### **Recommendation 1**

The Authority should consider the proposals to amend Annex A as set out above, and approve them with any required amendments, to come into force on 1<sup>st</sup> January 2010.

### ***Amendments to the Standing Orders***

18. The draft amended Standing Orders at **ANNEX 1** to this paper have been comprehensively overhauled and redrafted.
19. The aim is to make the language crisper and more accessible; and to make the corporate governance framework in which the Authority operates clearer. Otiose provisions, and provisions which do not accord with the way the Authority now operates have been deleted or amended.
20. The draft Standing Orders have been amended to make it clear where the power to establish committees and to delegate functions arise from, and to incorporate references to the new sections of the Act effective from 1<sup>st</sup> October 2009.
21. The responsibilities of members, the Chair and Deputy Chair, and the Chief Executive (paragraphs 3.1 to 3.5) have been clarified.
22. The matters which the Authority has reserved to the full board (section 5), and those which it has delegated to others (section 6) have been updated to reflect decisions taken by the Authority over the course of the last two years.
23. In addition, the following new provisions have been introduced:
- a) the requirement for the Chief Executive to establish a corporate management group (paragraph 3.5.2);
  - b) the requirement for the Authority to maintain a Register of Hospitality (paragraph 3.6.1);
  - c) clarification of the process for members to seek legal advice (paragraph 3.9);
  - d) the requirement for the Authority to maintain a register of policies (paragraph 3.10);
  - e) a procedure for the Authority to approve written resolutions (paragraph 4.3);

- f) the right of auditors and other categories of person to attend meetings of the Authority (paragraph 4.11); and
- g) requirement of the Chair to try and ascertain views of members before exercising emergency powers (paragraph 5.2)

24. Finally, the circumstances in which an extraordinary general meeting may be called (paragraph 4.2) and the procedures for Committees and Working Groups (paragraph 7.3) have been clarified.

**Recommendation 2:**

The Authority should consider the draft Standing Orders at **ANNEX 1** to this paper, and approve them with any required amendments, to come into force on 1<sup>st</sup> January 2010.

***Annex E to the Standing Orders***

- 25. A draft Code of Conduct for Authority Members is enclosed at **ANNEX 2** to this paper. The code is intended to form a new Annex E to the Standing Orders. The draft Code reflects modern practice amongst regulatory bodies and updates the existing Code for Authority Members.
- 26. The Authority approved a Code of Conduct for members of the Appeal Committee earlier this year, and the draft Code is based on this.

**Recommendation 3:**

The Authority should consider the draft Code of Conduct at **ANNEX 2** to this paper, and approve the code with any required amendments, to come into force on 1<sup>st</sup> January 2010.