



Mr Paul Reid  
Chief Executive Officer  
Health Service Executive  
Dr Steevens' Hospital  
Dublin 8

24 March 2020

**Re: HSE Board**

Dear Paul,

I refer to your letter of 23<sup>rd</sup> March 2020 on the above subject.

In this exceptionally fast moving and challenging crisis the alignment of our two organisations, as part of a wider whole-of-government effort, is a critical success factor. We will continue to work intensively with you and your colleagues to achieve this objective.

I note the consideration given by the HSE Board to its statutory governance role in the current context. The role of Boards generally in crisis management (particularly those that are external in their origins) and specifically in the COVID-19 crisis response is the subject of some reflection globally and I welcome the HSE Board's consideration of this matter. I have provided some more general reflections below before dealing with the specific issues raised.

There can be no doubt that the HSE Board has a key role to play, as you have identified in line with that provided for in Section 16P. The role set out for the HSE Board therein is to "satisfy itself that appropriate systems, procedures and practices" are in place to achieve the Executive's object, for internal performance management and accountability, to enable compliance with Government policy and to manage the performance of the CEO. Under Section 21C it is your role to "ensure" that these appropriate systems, procedure and practices are in place and to "carry on and manage, and control generally, the administration and business of the Executive". This is how the legislation seeks to codify the distinction between governance and management. I note that the Board has recently put certain arrangements in place specific to the COVID-19 pandemic. The Minister and the Department are very satisfied that with the calibre of individuals appointed to the Board and to senior management roles the legislative requirements will continue to be successfully met, even in these most challenging of circumstances.

A further relevant statutory provision is Section 7 of the Health Act 2004 (as amended) which provides that the HSE "shall have regard to the policies (whether set out in codes, guidelines or other documents, or any combination thereof) and 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 Executive". This provision is intended to ensure that the policy

role of the Minister (and the Department acting on his or her authority) can be fully discharged and that the HSE works to implement this policy successfully. In practice, the Department seeks to the greatest extent possible to develop such policy in an open way involving the HSE in its consideration.

Turning to the National Public Health Emergency Team (NPHE), this is a mechanism for the management of health emergencies that has been used successfully in the past to manage disease outbreaks and other crises. Under the chairmanship of the Chief Medical Officer, there are nine HSE officials in its membership.

I note that you propose to ask the Chief Clinical Officer who is a HSE representative on the NPHE to ensure that the Board can input into important matters being considered by the NPHE which are connected to its governance role from now on. With such briefing of the HSE Board by the Chief Clinical Officer there are likely to be opportunities for the Chief Clinical Officer to preview NPHE consideration and input the perspective of the HSE Board into the decision-making process. A proviso would have to be that there is a requirement for fast-paced response to this emergency - issues may arise with limited notice and decisions once made will need to be implemented urgently. In such instances, if it would assist the HSE Board in having clarity as to the responsibilities involved, we can consider with the Minister the issuance of a direction under section 10 of the Health Act in such circumstances.

I note the example you have provided regarding the ethical framework for clinical decision making during the pandemic. Medical leaders have sought such a framework on an urgent basis. The NPHE Ethics sub group, along with the NPHE Expert Advisory Group have reviewed and fed into this policy and, I understand, NPHE adopted the policy at its latest meeting. Due to the timelines and the bringing forward of the NPHE meeting I was not in a position to brief on your correspondence, but I understand the Chief Clinical Officer outlined the interest and position of the HSE Board to the NPHE.

As stated at the outset, the Minister and the Department are very committed to building on our cooperation to date to ensure the collaboration and alignment needed with the HSE throughout this national crisis. Please be assured of the Government's recognition and support for the critical role being played by health and social care staff, you and your management colleagues and the HSE Board.

Finally, the Minister has suggested a teleconference with the HSE Chair and yourself in relation to the overall COVID-19 response. This would provide an opportunity to tease out any issues arising from the above.

Yours sincerely,



*Jim Breslin*  
Secretary General