



Board Meeting Minutes

Part 1

Date and Time of Meeting:	Wednesday 2 nd November 2016 @ 8.30am
Venue	Radcliffe House, Warwick Conference Centre, Coventry
Present	Ian Dilks, Chair Andrew Hauser, Non-Executive Director Keith Edmonds, Non-Executive Director Helen Vernon, Chief Executive Vicky Voller, Director of NCAS Joanne Evans, Director of Finance Denise Chaffer, Director of Safety and Learning John Mead, Technical Claims Director (Associate Board Member) Mike Durkin, NHS Improvement (Ex-Officio, Associate Board Member)
In Attendance	Alan Hunter, Director of Claims Ian Adams, Director of Membership and Stakeholder Engagement Representative of DH Sponsor Team Julia Wellard, Executive Assistant (Minutes)

Apologies

1 Administrative Matters

1.1 Chair's opening remarks and apologies

The Chair opened the meeting by welcoming Mike Durkin, National Director of Patient Safety at NHS Improvement, who has been co-opted on to the Board as an Associate Non-Executive Director in view of the NHS LA's increased focus on patient safety. Dr Durkin gave a brief background of his career and commented that he saw the NHS LA's role in the NHS as being partners in delivering a safer environment for patients.

1.2 Declaration of conflicts of interest of members

None.

1.3 Minutes of Board Meeting held on Wednesday 7th September 2016

Subject to a minor amendment, the minutes of the Board meeting held on Wednesday 7th September 2016 were APPROVED and a copy was signed by the Chair.

3 Actions from Board meetings

The actions from the last Board meeting were noted and the closed actions were removed.

The following actions were closed:

NCAS performance – the Chief Executive raised the issues relating to KPI8 with the Director of NCAS in relation to two workshops receiving scores of below 4.0 and it was noted that there have been no repeated themes but the Director of NCAS will keep this under review.

2 Operational Items

2.1 Chief Executive's Report

CNST Pricing Consultation Response – publication 17th October 2016

The response to the CNST pricing consultation, which was discussed at the Board Awayday on the 6th October, was published on 17th October and sets out a programme of reform for CNST to support efforts to improve safety in the NHS, signalling a shift in the NHS LA's pricing approach relying less on past experience and focussing on indicators of recent improvement. This was aligned with the Secretary of State for Health's announcement on the proposed consultation on RRR as well as a link with identifying "risk indicators" to predict current outcomes as part of an approach to link CNST pricing for maternity units to safety with effect from 1st April 2017.

Proposed Department of Health Consultation on Rapid Resolution and Redress (RRR)

Following the Secretary of State for Health's announcement on 17th October on the proposed consultation on RRR, the NHS LA is working closely with DH to help them develop the consultation and to move to an early notification process for cases of brain damage at birth. This will enable the NHS LA to test the principles of RRR and provide greater visibility of incidents which are likely to result in high value claims from 1st April 2017.

Consultation on "safe space"

The Department of Health has published a consultation on "providing a safe space in healthcare safety investigations" which legally ensures that information staff provide as part of a health service investigation will be kept confidential except where there is an immediate risk to patient safety or where the High Court makes an Order permitting disclosures. The implications for the investigation of claims, the potential interface with the RRR scheme and NCAS services has been discussed with DH. The NHS LA will consider whether to respond to the consultation which closes on 16th December 2016. If a response is proposed, a draft will be circulated to the Board for comment. It was considered that the concept of embracing a safe space was already happening, which incorporates complaints and whistleblowing, but changing the culture would take a long time to take effect. There was also potential for conflict between this and the duty of candour. The Board expressed concerns how this would work in practice but were supportive of the initiative and in principle thought it to be a good scheme for patients.

Action against Medical Accidents (AvMA) – proposal for a "Patient Safety Letter"

AvMA have proposed, by way of a discussion paper, that a "patient safety letter" is provided to patients detailing investigations and learning from claims where an admission of breach of duty has been made, to ensure that patient safety lessons are learnt from litigation. The Chief Executive and Director of Safety and Learning have met with AvMA and advised that the NHS LA was supportive of the objectives of the paper although there were practicalities to explore.

The Board noted the Chief Executive's report.

2.2 Performance

Finance

The summary financial report to September 2016 was presented showing a £91 million underspend for CNST which has increased from the position reported in August of £89 million. It was noted that given the volatility of claims payments there was little significance to this.

Expenditure continues to be monitored and we are working towards achieving a breakeven position for the CNST scheme by year end.

It was noted that performance relating to the number of invoices paid within 30 days continues to be below target of 95% at 78% which is attributed to issues with processing and matching invoices to purchase orders for a number of suppliers as well as how the purchase order system is used which is currently different between Claims and NCAS. A new member of the Finance Team is due to start in November and the Director of Finance will ensure that an approximate date be identified for performance issues to be addressed.

Action: DoF

The Board noted the performance report for the Finance, Claims, NCAS, Corporate Governance and FHS AU functions.

3 Management proposals requiring Board input or approval

3.1 Review of FHS AU Panel Members (Lay)

A proposal was put forward by the Head of FHS AU for re-appointment of all eight Lay Panel Members for a further two years subject to members continuing to satisfy the conditions/qualifications of appointment as set out in their terms and conditions, which has been confirmed by the Corporate Governance Team.

It was confirmed that 5 Lay Panel Members have engaged with and achieved their performance reviews to a satisfactory standard with the three remaining members' appraisals undertaken in October, again to a satisfactory standard.

It was noted that changing all eight lay members at the same time was not considered suitable in terms of business continuity and the Board questioned whether a programme of succession planning can be put in place to ensure that knowledge is passed on. The Chief Executive will discuss this with the Head of FHS AU.

Action: CE

The Board approved re-appointment of all eight Lay Panel members if required but requested that a programme of succession planning is put in place going forward.

4 Key Developments

4.1 Important Legal Developments

Reforms to the Justice System

The Government published a paper on "Transforming our Justice System" in September 2016 which summarises various proposed reforms across the legal field and makes reference to extension of the fixed recoverable costs régime which states that "We will build on measures introduced in the last Parliament for low value personal injury claims, to limit the level of legal costs recoverable..... We are keen to extend the fixed recoverable costs régime to as many civil cases as possible. The senior judiciary will be developing proposals on which we will then consult".

There is uncertainty on how the senior judiciary will take this forward and it is likely that they will need to consult with solicitors and cost judges. The Technical Claims Director will be liaising with DH to find out what is proposed and ensure that the needs of the health service are considered.

The introduction of an online process for resolving claims is also proposed which adopts Lord

Justice Briggs' recommendation that many civil disputes should be resolved online, leaving judicial time for "the most complex cases". The Rules Committee will be streamlined so that a new system for online cases can be created.

Health Service Reports

It was noted that the Care Quality Commission (CQC) had published findings of its review of how acute NHS trusts report on investigations into serious incidents and the extent to which they identify learning that can be used to improve practice when things go wrong.

Although the NHS LA was not involved in the review, the NHS LA concurred with all aspects of the report.

The Technical Claims Director will keep the Board updated on the position.

The Board noted the position and the summary of key themes.

5 Board Committee Reports and Minutes

5.1 The Board noted the minutes of the Audit and Risk Committee held on 9th June 2016.

6 Other matters requiring Board attention

6.1 *Risk Management Policy and Procedure*

Following recommendations from an internal audit advisory review in February 2015, the Risk Management Policy and Procedure has been updated and made more user friendly. The policy and procedure has been endorsed by the Senior Management Team and was approved by the Audit and Risk Committee on the 13th October.

The next proposed review date is in two years and it was considered that given the link to risk appetite that the policy and procedure should be reviewed in one year's time.

The Board noted the changes and approved the Risk Management Policy and Procedure with the next review date in a year's time.

7 Any Other Business

There was no other business to note.

8 Date and Venue for next meeting

8.1 The next Board meeting is scheduled for Wednesday 25th January 2016 at 9.00am and will be held in BR1&2, 151 Buckingham Palace Road, London.

Signed

Date