

Board meeting minutes (Part 1)

8th November 2017

09:00 – 13:00

Queen Elizabeth II Conference Centre

Present	
Ian Dilks	Chair
Andrew Hauser	Non-Executive Director
Keith Edmonds	Non-Executive Director
Mike Pinkerton	Non-Executive Director
Charlotte Moar	Non-Executive Director
Helen Vernon	Chief Executive
Vicky Voller	Director of NCAS
Denise Chaffer	Director of Safety & Learning
Joanne Evans	Director of Finance & Corporate Planning
John Mead	Technical Claims Director (Associate Board Member)
Mike Durkin	Associate Non-Executive Board Member
In attendance	
Alan Hunter	Director of Claims
Ian Adams	Director of Membership & Stakeholder Engagement
Cheryl Lynch	Representative of DH Sponsor Team
Catherine O'Sullivan	Business Support Manager
Julia Wellard	Executive Assistant (Minutes)
Apologies	

1 Administrative matters

1.1 Chair's opening remarks and apologies

The Chair opened the meeting by welcoming everybody. There were no apologies for absence.

The Chair reported on the proposed actions which will inform the assurance provided by the Accounting Officer in the Governance Statement in the Annual Report, namely the statement about self-assessment, and an assessment of compliance with Corporate Governance in central government departments: Code of good practice 2011, published by HM Treasury and the Cabinet Office, July 2011.

It was agreed last year that both these requirements would be addressed by the Governance Team through extracting content from Board meetings and conducting

a review informed by an NAO effectiveness questionnaire specifically for ALBs. The findings and actions from the effectiveness review were presented to the Board at the time and were set out in the 2016/17 Annual Report.

The Board agreed they were comfortable with adopting a similar approach for the current year. It was agreed that a fuller independent Board effectiveness review is undertaken every 3 years.

1.2 Declaration of conflicts of interest of members

There were no conflicts of interest to note.

1.3 Minutes of Board Meeting held on 6th September 2017

The minutes of the Board meeting held on 6th September 2017, which incorporated comments on a draft provided by Board members, were APPROVED and a copy signed by the Chair.

1.4 Review of actions from Board meetings

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

The following actions were rolled forward:

- Policy for the Management of Fire and Emergency Safety – The Head of Governance to ensure changes are made to the policy.

The following actions were closed:

- Finance performance – a report to be submitted on the review of the Purchase Ordering process for the second half of the calendar year – A report has been included in the private meeting.
- Comms – ‘Did you Know’ leaflets – The Director of Safety and Learning will take a snapshot of the database at the time leaflets are launched and then a snapshot a year down the line to see if there have been any improvements and a report will be brought back next year on impact.
- Safety and Learning Performance – A numerical measure has been given against the Safety and Learning KPIs where possible with an explanation.
- Summary Evaluation of ‘Let’s Talk Mental Health Matters’ – Director of Safety and Learning to write to Mental Health Chief Executives who did not have representatives at the event to give a summary. This will be included in the next newsletter to members in November.

2 Operational items

2.1 Chief Executive’s Report

Draft Health Service Safety Investigations Bill

A Draft Health Service Safety Investigations Bill was published on 12th October which proposes to give the Health Service Safety Investigations Body (HSSIB) a statutory power to conduct investigations using safe space, focussing on system-wide learning from serious incidents. We were involved in providing feedback to DH on the Bill which has been taken into account. It was noted that safe space was limited and so the need for NHS Resolution to duplicate factual investigations was minimised.

ISO certification

The Chief Executive was pleased to report that following an ISO 27001 surveillance audit from 25th to 27th October, NHS Resolution will retain its ISO certification, with no non-conformities found, an improvement on the last audit.

The Board congratulated the Senior Management Team and staff, and in particular the Governance Team and Head of IT, for their hard work in ensuring that we remained certified.

Shared objective

We have been working with NHS Improvement on a shared objective to maximise collation, analysis and dissemination of learning via our Early Notification scheme and NHS Improvement's reach into the NHS. The aim is to achieve timely and robust reporting of all cases with the potential for severe brain injury at birth to facilitate improved support for the families concerned and incentivise effective learning at a local level with the aim of reducing the number of incidents.

Although trusts are encouraged to report notifiable cases, there was some concern about the objective of 100% reporting of cases which appears to be challenging. We are currently exercising no sanction for non-reporting but we do need to consider options going forward and it may be that NHS Improvement can help in this regard. We currently use the Imperial NNRD database to cross check reports coming in.

There is a Clinical Advisory Group meeting scheduled which is specifically to look at a standard operating procedure and what action can be taken to further encourage early reporting. The scheme will also be subject to a review after 1 year.

The Board noted the Chief Executive's Report.

2.2 Performance review

The performance review detailing financial performance and key performance indicators for the period under review was presented. It was noted that the data which supports the measurement of our performance in relation to claims management is commercially sensitive and disclosure could adversely impact on our ability to manage claims effectively. Consequently, whilst claims activity is reported in Part 1, claims KPIs are reported and monitored in the Part 2 private Board session.

It was noted that the main challenges and concerns for the Senior Management Team in relation to performance metrics related to :

- The PIDR and ensuring that it is continually monitored in terms of the additional costs arising from the new Court Discount Rate as well as the challenges going forward to ensure that experience is captured to inform the process of preparation of accounts.
- Understanding why the requests for advice in NCAS over the last few years are going down, although in the last few months they have been going up.
- Claims frequency which looks to be stabilising although the number of clinical claims have most recently gone up slightly. Non-clinical claims continue to reduce.

It was noted that the NCAS contract for clinical reviews with the General Dental Council (GDC) is due to end in October. We will continue to provide the GDC with

performance assessments.

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

3 Management proposals requiring Board input or approval

3.1 FHS AU Panel Member Appointments

The existing six Pharmacy Panel Members terms of appointment expire on 8th May 2018. The FHS AU invited applications during July and August 2017 and seven applications were received, five of which were from existing panel members and showed a considerable amount of experience. All seven candidates were interviewed.

It was noted that at a previous Board meeting that it had been agreed that panel member appointments should be staggered for continuity reasons. The Chief Executive will liaise with the Head of FHS AU to see whether they can be staggered at, say, 4 and 6 years and whether there was an overall time limit on appointments.

Action: CE

Subject to these two points being checked with the Head of FHS AU, the Board approved the proposals for appointment of panel members with effect from 9th May 2018 for five years with a further three years extension. Paul McGorry's appointment will be with effect from 5th December to enable him to undertake full training.

Mike Pinkerton was thanked for his assistance in the panel interviews.

3.2 FHS AU Scheme of Delegation

The FHS AU Scheme of Delegation has been updated to include the FHS AU Business Services Manager in decision making relating to the following for business continuity/succession planning purposes:

- Matters relating to goodwill
- Matters relating to GP registrars
- Dental, medical and ophthalmic performers: suspension payments and consent to withdrawal
- Dental, medical and ophthalmic dispute resolution
- Matters relating to pharmaceutical and local pharmaceutical services.

The Board approved the revised FHS AU Scheme of Delegation.

4 Liaison with Key Stakeholders

4.1 Communications and Stakeholder Engagement Report

An update on recent communications and stakeholder engagement was presented detailing key activity relating to proactive/reactive media management, issues

management, digital communications, stakeholder engagement and events across NHSR.

In particular, the Chief Executive represented NHS Resolution at a Public Accounts Committee Hearing on the Costs of Clinical Negligence on the 16th October. No media enquiries were received as a result of the Hearing. The Committee is expected to report in December.

There has been a lot of interest in Dr Michael Magro's report on Five Years of cerebral palsy claims which saw a lot of media coverage and a high level of recorded web interest. We have recently appointed another clinical fellow who has a ST5 in psychiatry and who will be undertaking a similar type of study on mental health inquests. Mental health is currently an organisational priority and we will be engaging other organisations who are undertaking work in this area. The Fellow's work will also encompass suicides relating to maternal deaths. The Fellows bring the benefit of being able to undertake deep dives into data with a clinical lens. In addition we are about to appoint two further clinical fellow posts which support the Early Notification Scheme and who will also produce similar reports on maternity harm and still births. It is expected if we continue to bring on board Clinical Fellows we will have two to three publications a year and the Board will be kept updated on developments going forward and how they fit in with the strategy. A publication plan will be developed to ensure impact, timing, alignment and avoid duplication with other work elsewhere.

Strategically, this work takes forward our aim to bring credibility and rigour to the analysis of our data. We are also exploring the potential for academic partnerships, particularly in safety and quality improvement.

The Board noted the Stakeholder Engagement Report.

5 Key Developments

5.1 *Personal Injury Discount Rate (PIDR)*

Following the change to the Personal Injury Discount Rate (PIDR) to minus 0.75% which took effect in March 2017, the Ministry of Justice (MoJ) consulted on the methodology and basis of the calculation. The MoJ published a formal response to the consultation on 7th September following which a draft Bill has been published which proposed a different approach to the calculation of the PIDR.

If the draft legislation is implemented the discount rate is expected to revert to a zero or small positive rate. There is uncertainty however on the timetable for implementation of any legislation and thus when any new rate will be introduced.

Contaminated Blood

In September, the High Court gave permission for approximately 500 claimants to seek compensation as a result of being infected by contaminated blood transfusions in the 1970s and 1980s. The Prime Minister announced in July that there would be a public enquiry into the matter which involved at least 2,400 people in the UK who were estimated to have died due to contaminated blood products infected with Hepatitis C which were imported from the USA. It is alleged that the Department of Health failed to take reasonable care to prevent injury to NHS patients for imported

blood products and the cases pre-date implementation of the European Product Liability Directive which may impose strict liability in cases of this kind. The cases pre-date the creation of the CNST scheme managed by NHS Resolution and are being managed through the Government Legal Department.

The Board noted the position.

6 Oversight of Key Projects

6.1 There were no key project reports to note.

7 Board Committee Reports and Minutes

7.1 [ARC Minutes of meeting held on 8th June 2017](#)

The approved minutes of the ARC meeting held on 8th June were noted.

8 Other matters requiring Board attention

8.1 [Policy Register](#)

The policy register has been updated. It was noted that there were a number of policies that had a RAG rating of red and members queried whether immediate action should be taken to enable these outstanding policies to be approved. All policies are regularly reviewed by the Corporate Governance Team and they are all now on track to be approved and brought back to Board where required.

A number of policies have been identified as being currently under review with an indication of when they will be brought to a future Board meeting for noting or approval as follows:

CG 03 Risk Management policy

This policy is being reviewed in conjunction with the review of the risk appetite statement. It is current and will be referred to the March 2018 Board meeting for approval.

CG07 Business Continuity Management Strategy & CG08 Business Continuity Management Policy

This policy is being reviewed and will be referred to the March 2018 Board meeting for approval.

ITAF04 Health and Safety and Wellbeing policy

This policy is being reviewed and informed by the findings from the legal compliance audit and will be referred to the January 2018 Board meeting for approval.

FINP01 Standing Orders

This is being reviewed in conjunction with the revision of the Framework Agreement and also with the development of a scheme of delegation. It is currently intended to bring this to the January Board meeting for approval although this could be

influenced by progress on updating the Framework Agreement.

FINP02 Standing Financial Instructions

This is being reviewed informed by the work of local counter fraud assessment and the legal compliance audit. It is intended to be referred to the January 2018 Board meeting for approval.

FINP03 Fraud & Corruption Policy

This policy is awaiting further work with our counter fraud team who are completing their report to inform further developments on the policy. It is intended to be referred to the January 2018 Board meeting.

FINP05 Procurement Policy

This policy is being rolled forward pending completion of review for March 2018 Board meeting, informed by review of Standing Financial Instructions.

HR 03 Whistleblowing policy

This policy is current but review remains ongoing due to external developments and consideration on how this is translated to our internal procedures. This is intended to be referred to the January 2018 Board meeting for approval. In the meantime, the current policy has been amended to reflect the changes to the membership at Board, and designation of the current lead at Board.

HR04 Hospitality and Gifts Policy

This policy is being reviewed and is being informed by local counter fraud assessment and guidance. This is intended to be referred to the January 2018 Board meeting.

RM 07 Complaints policy

This policy is being reviewed in conjunction with the cross government complaints group who are informing work on the policy. It has been deferred as it was pending further developments on the NHS complaints regulations. It is intended to bring this to the January 2018 Board meeting for approval.

The Board noted the Policy Register.

8.2 [Policies for Approval/Noting](#)

The following policies which has been approved by senior management under delegation were circulated to the Board outside of the meeting:

HR06 Special Leave Policy

HR07 Performance Appraisal policy

HR13 No Smoking Policy

HR17 Dignity at Work Policy and Procedure

HR22 Flexible Working Policy

HR29 Remote Access and Home Working Policy

The Board noted the policies.

The HR01 Equality, Diversity and Inclusion policy was circulated outside of the

meeting. The key changes to the policy were:

- Three yearly review and reformat
- Standard equality assessment updated
- Update HR&OD's responsibilities
- Expanding on the General Equality Duty statement and the requirements under mandatory gender pay gap reporting.
- Expanding on the purpose of the Equality Impact Assessment

The Board approved the Equality, Diversity and Inclusion policy.

9 Any Other Business

- 9.1 The Chair formally noted this was Andrew Hauser's last Board meeting as his term as Non-Executive Director ends on 30th November 2017. The Board thanked Andrew for his contribution to the Board and for his Chairmanship of the Audit and Risk Committee.

10 Date and Venue for next meeting

- 10.1 The next Board meeting is scheduled for Thursday 25th January 2018 at 9.00am and will be held in BR1 First Floor, NHS Resolution Office, 151 Buckingham Palace Road, London SW1W 9SZ.

Signed

Date