

Board meeting minutes (Part 1)

6 September 2017

09:00 – 13:00

Blue Room 1, First Floor, 151 Buckingham Palace Road, London

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
Tinku Mitra	Head of Governance
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, in particular Charlotte Moar, new Non-Executive Director, who started on 1st September 2017.

There were no apologies for absence.

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 12th July 2017 & AGM on 10th August 2017

Subject to minor amendments to reflect comments made following earlier review by Board members, the minutes of the Board meeting held on 12th July 2017 were

APPROVED and a copy signed by the Chair.

Subject to a minor amendment, the minutes of the AGM held on 10th August were noted by the Board 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:

- Finance performance – a report to be submitted on the review of the Purchase Ordering process for the second half of the calendar year – will be brought to the November 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. This has been rolled forward with a report to be brought back to Board in 9-12 months’ time.

The following actions were closed:

- Mediation Service – Director of Claims to prepare a paper on the key benefits and savings from the mediation service to the September Board. This is included on the agenda for the private meeting.
- Hospitality Register – Director of Claims to write to the legal panel to remind them of the hospitality policy. This has been completed.

2 Operational items

2.1 Chief Executive’s Report

Publication of the Annual Report and Accounts

NHS Resolution published its first Annual Report and Accounts under its new name on 13th July. The report has received some interest, particularly in relation to maternity.

Collaboration with ‘Getting it Right First Time’ (GIRFT)

We continue to work with the GIRFT team and a joint message is about to be sent out to trusts with a report detailing benchmarked claims data for surgical specialties. The aim is to make clinicians, staff and managers at trusts aware of the medical negligence claims across each of the surgical specialties reviewed allowing them to benchmark their performance against other acute and specialist trusts. It was noted that Chief Executives would also receive the report as they are involved in GIRFT. The Chief Executive will liaise with Professor Briggs to ascertain how the benchmarked reports have been received.

The Chief Executive is presenting at the Westminster Health Forum on the 14th September 2017. Professor Briggs is also attending to present on GIRFT. Tim Draycott and the Chair will also be speaking.

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 key performance indicators in the management of claims are commercially sensitive.

Finance

The summary financial report to the end of July 2017 was presented.

The Annually Managed Expenditure (AME) budget reported of £11.6 billion was based on the assumption of a -1% discount rate. The Director of Finance has been working with GAD and DH to update the AME forecast and on -0.75% the expenditure forecast is in the region of £9.4 billion.

It was noted that reference to the 'letter of comfort' from DH relating to funding the additional expenditure associated with the impact of PIDR has been included in the accounts.

Claims

The graph showing the month on month volatility in claims received under CNST and LTPS year on year to 31st July 2017 was presented. It was noted that the clinical claims are showing a small reduction. Claims volumes are volatile and hard to predict however the recent NAO VFM study has highlighted that there are fewer lawyers in this market compared to a year ago.

For the period May, June and July 2017, the number of new clinical claims and non-clinical claims received are 2,874 and 887 respectively compared with 2,775 and 1,055 in the same period in 2016. The rate of change for CNST and ELS is a 3.5% rise and it was questioned whether this was within the bounds of volatility. It was noted that the 3.5% is only reported for May, June and July and there is still a reduction from last year which is largely due to the LASPO 'bubble' coming to an end. However, a response to the FRC consultation is still pending which might also affect volumes.

Safety and Learning

All the Safety and Learning KPIs have been fully met:

- 95% response rate to members following a request for contact within five working days.
- Feedback from at least 60% of trusts visited on recognition of leaflets – oral or written
- 95% response rate to members following a request for contact.
- 80% of member NHS trusts visited have accessed their scorecard and provided positive feedback on it.

It was suggested that KPI reports should include a numerical measure where possible (this may not always be achievable) and in any event include a commentary where the KPI has not been met with details of what management action is proposed.

Action: DoS&L

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

3 Management proposals requiring Board input or approval

3.1 There were no items.

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 NHR.

There have been nine direct marketing activities undertaken during the reported period as follows:

- Reporting back on Sign up to Safety Bid incentivisation scheme – relating to feedback on preliminary findings
- Managing performance concerns in Wales – advertised NCAS Wales workshops including case investigator and case manager training and understanding and using Upholding Professional Standards in Wales
- Early Notification update for maternity members
- Open disclosure/duty of candour research – follow-up
- Scorecards – notification that Scorecards are now available
- NHS Resolution Annual Report and Accounts 2016/17
- Open disclosure/duty of candour research
- Prelaunch announcement of scorecards
- Notification of the appointment of senior clinical advisors

A news story was published on the NHS Resolution website relating to the latest Annual Report and Accounts for 2016/17 as well as a statement relating to the Medical Protection Society's report on 'The Rising Cost of Clinical Negligence, Who pays the Price?'

A refreshed version of the Saying Sorry leaflet was launched at the NHS Confederation Conference in Liverpool and it was noted that this is being used in the field.

Work is continuing on the website and we are currently in the discovery phase. There is a lot of internal engagement taking place with groups looking at what we want to see in our website functionality. There has also been a session with panel firms. The next stage will be to package the proposals and bring this to the Board Awayday for discussion. Andrew Hauser expressed an interest in being involved in planning the website. We are still on target for the new website to be launched at the beginning of the calendar year.

The Board noted the Stakeholder Engagement Report.

4.2 Summary Evaluation of 'Let's Talk Mental Health Matters'

A summary evaluation and analysis was provided on the 'Let's Talk Mental Health Matters' event held on 27th June 2017. The event's purpose was to highlight the national picture of expert learning from mental health experience and inquests so that patient harm, suicides and risks to NHS staff can be reduced. The event was well attended with 73 delegates comprising of 60 clinical members from 32 different Trusts and CCGs, as well as attendees from Arm's Length Bodies, patients, charities, relatives of patients, NHSR staff and panel.

It was noted that we are replacing Dr Michael Magro who was our Darzi Fellow focusing on maternity with a Clinical Fellow with a specific interest in mental health inquests and who will be deep diving the mental health suicide claims experience.

The Board noted that this was evidence of NHS Resolution adopting a parity of esteem between mental health and physical health services.

It was suggested it would be worth writing to Mental Health Chief Executives who did not have representatives at the event to give a summary and a summary of the day will be going on the NHS Resolution website as well as an article included in the NHS Resolution newsletter. There will also be follow-up work and the team will be writing out to regions.

Action: DoS&L

It was considered, given the very positive feedback for these events, whether we should increase our activity in this area and this should be considered as part of the 2018/19 plan. It was noted that our legal panel were delivering a great deal in terms of running a number of fora around the country. There are other departments we can link with e.g. there is a ministerial board on deaths in custody which is Health, Justice and Home Office who would be very interested as well as HSIB and we are looking into which other organisations and groups are already in the space that we should be working with.

Next steps will be to produce more patient case stories with supporting slide decks, extend future events to include the paediatric mental health population, share learning from mediations and trials and improve and extend interactive tools to support clinicians with candour, tone and having patient and family involvement. A number of outputs are also planned for 2017/18 including further events, and 'did you know' mental health leaflet.

The Board noted the summary evaluation report and congratulated the Director of Safety and Learning and team on a successful event.

5 Key Developments

5.1 Jackson review of Fixed Recoverable Costs

An update was provided summarising Sir Rupert Jackson's recent report on Fixed Recoverable Costs (FRC), the recommendations of which will have implications for

NHS Resolution as follows:

- Fast track cases – proposed that FRC be extended to all claims valued at £25,000 or less
- Intermediate track – this proposal is new and is intended for relatively straightforward cases valued at between £25,000 and £100,000 but with higher levels of FRC graded depending on their complexity of the issues involved, although this will not apply for most clinical negligence claims or asbestos related disease claims.
- Clinical negligence – Sir Rupert believes that FRC should apply to clinical negligence claims where damages are valued at up to £25,000 and that this will require procedural changes. It is recommended that a working party be established by the Civil Justice Council in conjunction with DH and consist of claimant and defendant representatives.
- Way forward – Sir Rupert's report has been submitted to the Lord Chief Justice and Master of the Rolls.

The current position is that FRC are only applicable to a restricted tranche of claims and do not apply to clinical negligence claims at all. This report is now with Government to respond to the recommendations and the Lord Chancellor has announced that there will be a consultation following Government's response. DH's consultation expired some months ago and DH decided to defer its reply pending Sir Rupert's report.

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 There were no reports or minutes to note.

8 Other matters requiring Board attention

8.1 Induction Policy

The Induction Policy has been updated to reflect a consistent approach with other HR policies. Changes include:

- Updated with New Logo, Name Change adjusted throughout document
- Internally checked with departmental leads on their local induction and approach
- Updated policy references in document to ensure aligned to refreshed policies
- Updated Appendices to reflect headings and content with document
- Equality Impact Assessment has been completed

The Board noted the Induction Policy.

8.2 Policy for the Management of Fire and Emergency Safety

The Policy has been updated to include the following changes:

- Updated with New Logo, Name Change adjusted throughout document
- Updated policy references in document to ensure aligned to refreshed policies
- Reflect the Cardiff office has now closed
- Updated Appendices to reflect headings and content with document

In terms of responsibilities, it was noted that ultimate responsibility for ensuring that specific procedures were in place had changed from being the Chief Executive and Board's responsibility to the Chief Executive and Audit and Risk Committee and this should be changed to the Operational Review Group (ORG). Similarly the ultimate responsibility for fire safety has been changed from the Director of Finance to the Head of IT which is correct. The Head of Governance will ensure that the change is made.

Action: HoG

Subject to the minor amendment, the Board approved the Policy for the Management of Fire and Emergency Safety.

9 Any Other Business

9.1 Appeals Unit (FHSAU) Panel Member Fees

The FHSAU Appeals Unit provides a number of functions in respect of disputes relating to the provision of pharmaceutical services, as directed by the Secretary of State, which includes the establishment of a number of committees with members allocated from a panel which is selected by the Board. Following a benchmark exercise some years ago, panel members are now paid in line with the Ministry of Justice (MoJ) salary/fees schedule and fees have been increased for Chairs by £4 from £486.82 to £491.69 per day and lay members increased by £2.77 from £276.74 to £279.51 per day.

It was noted that the new fees came into effect from 1st April 2017 and there was some concern why this has not been received earlier for approval. The Head of Governance will check when the new fees were notified, and in particular if the new fees were to be backdated to 1st April. The Head of Governance will also ask the Head of FHSAU to follow up with the MoJ in the event that there has been late notification of the fees.

Action: HoG

The Board approved the recommendation for the increase in fees .subject to clarification of the issues noted and delegated final approval to the Chair and Chief Executive.

10 Date and Venue for next meeting

- 10.1 The next Board meeting is scheduled for Wednesday 8th November 2017 at 9.00am which will be followed the NHS Resolution panel conference which is scheduled to be held at the QEII. We are currently looking into whether the Board meeting can be held at the QEII Centre and will advise the Board accordingly.

Signed

Date