

Board meeting minutes (Part 1)

21 January 2020

10:00 – 15:30

Venue: Thomas House, 84 Eccleston Square, London SW1V 1LP

Present	
Ian Dilks	Chair
Keith Edmonds	Non-Executive Director
Mike Pinkerton	Non-Executive Director
Charlotte Moar	Non-Executive Director
Nigel Trout	Non-Executive Director
Sam Everington	Non-Executive Director (Associate Board Member)
Helen Vernon	Chief Executive
Denise Chaffer	Director of Safety & Learning
Vicky Voller	Director of Advice & Appeals
Joanne Evans	Director of Finance & Corporate Planning
John Mead	Technical Claims Director (Associate Board Member)
In attendance	
Simon Hammond	Director of Claims Management
Ian Adams	Director of Membership and Stakeholder Engagement
Cheryl Lynch	Representative of DHSC Sponsor Team
Tinku Mitra	Head of Corporate & Information Governance
Julia Wellard	Executive Personal Assistant (Minutes)
Apologies	
Mike Durkin	Non-Executive Director (Associate Board Member)

1 Administrative matters

1.1 Chair's opening remarks and apologies

The Chair opened the meeting by welcoming everyone.

Apologies for absence were received from Mike Durkin.

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 13th November 2019

The minutes of the Board meeting held on Wednesday 13th November 2019 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.

There were no actions to roll forward

The following actions were closed.

- Sharing learning from claims related to specific cases - Explore what further mechanisms could be used for sharing learning from claims related to specific incidents. Discussion has taken place and ongoing work continuing in conjunction with the TOM work.
- One year on - evaluation of our publication 'learning from suicide related claims' - Stakeholders to be reminded of the recommendations they are signed up to. This report was recirculated via social media and stakeholders are being followed up during next few weeks. Plans being developed to explore an incentive scheme linked to the report's recommendations.
- GP support recruitment adverts – Director of Safety and Learning to share the adverts with the Board. This was actioned and appointment offers have been made.
- Strategic Risk Register mapping with key objectives – Director of Finance to ensure that the strategic risk register is mapped with the organisation's key objectives. This has been completed. The register will be reviewed by the Audit and Risk Committee on 12th February.
- Board members' attendance at team meetings - Executive Directors to ensure that NEDs are invited to attend team meetings across the organisation.

2 Operational items

2.1 Chief Executive's Report

HPAN Directions (NHS Litigation Authority (Amendment) Directions 2019)

The Health Professional Alert Notification system was originally established by the Healthcare Professionals Alert Notices Direction 2006. The HPAN function transferred to NHS Resolution in April 2013 by Direction at which point the 2006 Directions lapsed. Revised Directions came into force in December 2019.

The Director of Practitioner Performance Advice, Head of Corporate and Information Governance and DHSC representative were thanked for their work in concluding the Directions.

Safety and Learning Directions 2019

New Directions have been developed for NHS Resolution in respect of safety and learning across all business areas which will support our strategic aims to analyse and learn from our work across Claims Management, Appeals and Advice.

Framework Agreement

Work continues on the revised Framework Agreement which is almost complete. An earlier version of the Agreement was considered by the Board in July 2019 and comments have been included. The Agreement has been cleared with HMT and is subject to final clearance from senior DHSC officials. The Board is not required to approve the Agreement.

Healthwatch England Report – Shifting the Mindset

Healthwatch England have published a report ‘*Shifting the mindset*’ which investigates how hospitals report on complaints and whether current efforts are sufficient to build public trust. NHS Resolution contributed to the report which also references our *Being Fair* publication.

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. The data which support the measurement of our performance in relation to claims management are commercially sensitive and disclosure could adversely impact 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.

Finance Performance

The summary financial report to the end of November 2019 was presented. The baseline position year to date is reporting an underspend which has increased by £10m as at the end of December 2019. There is a plan in place to bring the budget back on track and make sure that we are utilising the funds available to resolve claims.

In terms of performance relating to the number of invoices paid within 30 days, this continues to remain below target (95%) at 77%. The new finance system was launched at the end of November 2019 and therefore performance should begin to see an improvement as the new system embeds and staff are trained in the overall payments system.

Claims Performance

In terms of claims volumes for the three principal indemnity schemes for the financial year up to 30th November, the number of claims and incident reports received for CNST and LTPS have increased slightly.

In clinical, orthopaedic surgery remains the top reported specialty year to date.

Practitioner Performance Advice Performance

An update on the advice requested by sector and professional group from April to November 2019, current live activity for the assessment and intervention services and Healthcare Professional Alert Notices (HPANs) was presented. The number of requests for advice continue moving up and down. Internal reporting arrangements are being strengthened to identify healthcare organisations who are requesting advice in fewer cases than might be expected. Utilising our regional link adviser model, steps are being taken to proactively re-engage with those organisations in order that they are fully appraised of the support on offer. This is underpinned by the new case

management framework for all advisers which sets out the expected arrangements for establishing and maintaining links with their respective healthcare organisations as link adviser.

It was noted that 81% of organisations are working with the Advice service so awareness is increasing. The team are also conducting an in-depth customer survey which aims to identify whether there is evidence that capability has increased at a local level and it is hoped that we will have a narrative which can be included in the Annual Report and Accounts. It was considered we should look at the number of practitioners operating in the system and if the rate of referral is going down and the number of practitioners are going up then this would need looking at.

Primary Care Appeals

All KPIs for the reporting period have been fully met save for the average number of weeks taken to resolve appeals and disputes (oral hearing) which was missed due to unavailability of venue.

Safety and Learning

All KPIs for the reporting period have been fully met. It was noted that the Safety and Learning team continue to participate in and run a number of events and conferences. In particular the evaluation of the national maternity conference which was held in December demonstrated that we are having a significant impact in that area. Being Fair is also having an impact in terms of the uptake and where it is being used. The Safety and Learning team have undertaken 67 national events and we are continually receiving requests for us to run further events.

The Board noted the performance report for the Finance, Claims, Practitioner Performance Advice, Safety and Learning, Early Notification Performance and Primary Care Appeals functions.

2.3 HR&OD Report

The Head of HR and OD attended the meeting to present the HR and OD report which provides information on the organisation's key workforce indicators, equalities characteristics and the HR and OD activities for the period December 2018 to November 2019.

Key activities of note are:

Establishment - the cumulative turnover rate has reduced to below 10% compared with the previous reporting period of 10.7% which is positive with the continual increase in staff. The number of staff in post has risen by a further 24 FTE since June.

Agency Workers - A total of 42 agency workers were engaged during the reporting period, which is down from 52 in the previous period, 10 of which were active as at 30th November 2019. The number of agency worker assignments which have exceeded 12 months has decreased slightly with one current active assignment over 18 months which it is anticipated will end in the next month.

Leavers and Recruitment – Reports for leavers are broken down by non-voluntary and voluntary showing that by excluding non-voluntary leavers, the turnover rate is 7% and

therefore is relatively stable. A total of 81 new appointments were made in the reporting period demonstrating the level of growth, particularly in Claims Management.

Absence – sickness absence for the reporting period has been relatively low which is positive and there are no real trends. There was a slight increase noted throughout December 2018 and January 2019. However, despite the increase, the organisation overall continues to report below the national average rate.

There continues to be a large proportion of sickness attributed to anxiety, stress, depression and other psychiatric illnesses, but this has reduced by more than 8% since the last reporting period. Reporting of absence has also improved significantly and there are now more accurate data for the team to work with. All long-term sickness absence is being managed both informally and formally to ensure that staff are getting the right support, which is assisting with the continued reduction.

Employee Relations - Since the last reporting period, employee relations cases have remained relatively low with three new cases, two of which are new long-term sickness absence, neither of which are related to workplace stress or anxiety. These are being managed to resolution in a timely manner and where possible on an informal basis.

Investors in People (IiP) – The re-accreditation process is due to take place in February 2020. The online survey which was launched to all staff in December 2019 has received a 69% return rate meaning there are good data for reaccreditation and what areas we need to focus on.

Coaching and Mentoring Scheme – coaching and mentoring activity is growing across the organisation with five new internal coaching and two mentoring relationships started since July 2019. A project is being scoped to explore the option of reciprocal ALB mentoring which was discussed at the Health and Care Leaders (HCLS) Talent Board on 16th January.

Apprenticeships – A new apprenticeship programme was launched in November 2019 seeing seven junior case managers commence their Insurance Professional Level 4 Apprenticeship programme which is positive and we are now making use of the apprenticeship levy by giving people career pathways and career development opportunities. The aim is to look at implementing apprenticeship programmes in other areas of the organisation.

ESR System Development – The employee self-service went live in December providing staff with (limited) access to online records with the ability to view monthly payslips, annual P60s, total reward statements, updating of personal information, and the ability to record, request and approval of annual leave.

Mandatory and Statutory Training – There are seven Mandatory and Statutory Training (MAST) courses which all staff are required to complete. MAST compliance has remained consistently high since the last reporting period with a majority of categories nearing 100% compliance, except fraud and bribery awareness which continues to improve and has now reached 93% compliance.

Equality and Diversity – Our organisational profile as at 30th November 2019 shows we are closely aligned to the regional figures and we will be looking at breaking down the figures between London and Leeds which will be reported to Board.

A question was raised on how we compare to other organisations in terms of our workforce. It was confirmed that comparable data is limited. We do have a relatively low turnover rate in a growing organisation and are supporting staff in many different ways. The staff who move on do so mostly for promotional reasons where they are progressing and going on to develop themselves. Investors in People will provide comparable data of how well we are doing against other organisations in terms of the liP being a standard of workforce management which we continue with and improve with indications of areas where we are doing well, what we can build on and areas which need further focus. There is a huge change programme going on within the organisation which does have an impact on how staff feel with some nervousness on change which will be reflected in the survey and we are supporting staff through the change process. There is a workforce strategy where we are looking at further development of our workforce and how it is managed.

In terms of relocation, there is a ways of working project which is co-designed with staff across the organisation and we have potential benefits of realisation in terms of efficiency, some of which will be piloted before the move. It was suggested that there could be a session to update Board on what is being taken forward.

It was considered that our compliance with the level of Mandatory and Statutory Training and appraisals together with ongoing changes that are taking place across the organisation is impressive and there has been discussion at the Staff Engagement Group (SEG) on how we will ensure that we continually temperature check the organisation.

The Head of HR and OD was thanked for his report. It was agreed that a session or detailed paper be brought to Board on the Ways of Working project in relation to the office move. It was also agreed that a paper be brought back to Board on a breakdown of equality, diversity and inclusion figures split between the London and Leeds offices.

Action: HoHR&OD/DoPPA

The Board noted the HR and OD report.

2.4 Gender Pay Gap Report

NHS Resolution is required to publish its gender pay gap (GPG) data by March 2020 in accordance with recent requirements set out in the Equality Act 2010.

The Head of HR and OD provided a report on the organisation's GPG data which shows that there has been an increase in the organisation's mean gender pay gap over the last 12 months from 6% in 2018 to 7%. However this is a misleading statistic and the increase is due to recruitment in the period at more junior levels where the intake has been predominantly female. The gender pay gap shows the difference in the average earnings between male and female employees, the mean gender pay gap is the difference between the mean hourly rate of pay of male full-pay relevant employees and female full-pay relevant employees, and the median gender pay gap is the difference between the median hourly rate of pay for male full-pay relevant employees and female full-pay relevant employees.

The percentage of staff within each of the quartiles (upper quartile, upper middle quartile, lower middle quartile and upper middle quartile) has seen a 3% increase in females employed in the upper quartile. There is no gap to report in bonus pay.

In terms of the gap of gender profile by each pay band, there is a gap at each grade between the genders. We have looked at starting salaries which has not highlighted any discrepancies and there have been more female starters than male.

It was suggested that for gender profile by pay band, it would be helpful to have the total number of staff and whilst this does not need to be included in the report which we need to publish under the Equality Act 2010, this will be included in the version which we put on the website.

Action: HoHR&OD

The Board noted the Gender Pay Gap Report.

2.5 Complaints Report

The Head of Corporate and Information Governance gave an update on complaints activity during quarters one and two for the 2019/20 financial year with comparative data for the same period for the past three years.

The key point noted is that there has been an overall increase in the number of issues being dealt with outside the policy, which is being explored to consider how we might address claimants who are dissatisfied with the outcome of their claim who follow the complaints policy route which is not designed for this purpose.

In the reporting period, there have been no complaints which have been escalated to the Chair which is positive and this may be attributable to complainants being satisfied with the outcome of the management response so they do not take their complaint further.

We have been working with the PHSO and have fed back on their complaints framework, however the framework is more aimed at more NHS frontline staff rather than ALBs, and the Head of Corporate and Information Governance will be feeding this back through the Cross Government Complaints Forum.

It was noted that when we receive a complaint, we consider what elements are dealt with through the policy, particularly if they relate to conduct of staff and tone. However, as mentioned above, there are elements which do not fall under the complaints process, for example negotiations of settlement and therefore these are not always straightforward.

The Board noted the Complaints Report.

3 Management proposals requiring Board input or approval

3.1 Being Fair Implementation Plan

An implementation plan together with activity for Being Fair, NHS Resolution's publication to support the NHS develop a just and learning culture, was presented.

Being Fair came out of the Faculty of Learning modules for point of incident resolution for staff and patients. Being Fair primarily focuses on articulating a just and learning culture in response to patient safety incidents by providing guidance on how staff should be treated if they are involved in an incident. The principles apply internally to NHS Resolution i.e. claims management, dispute handling, inquests, safety and learning and practitioner performance advice, as well as externally. The guidance has attracted a lot of attention and has had an impact which we will be driving through other areas of work. There is a perception that there are a number of junior doctors who practise with the fear that something might go wrong and the guidance helps them and organisations to behave in a different way. We are working on how we promote Being Fair across the system in order to improve patient safety, improve handling of practitioners, and further help with how we can minimise the need for patients to resort to litigation. AvMA have also been supporting us in this work around the importance of families and patients in the same space.

It was considered to what extent we have a checklist for all people in the system and the Practitioner Performance Advice service undertakes a key role in ensuring that practitioners are supported and kept informed of every aspect of the process where concerns have been raised. We are also working collaboratively with the GMC to ensure that we are jointly working on ensuring best practice across the system which is motivating for other organisations. This is also important internally for our own staff.

The Board endorsed the ongoing work to help members develop skills and expertise in building a just and learning culture, a new way of investigating when things go wrong, communication, and negotiation which will have an impact on the outcome of claims going forward.

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 NHS Resolution.

On 5th December 2019 we held our largest conference in Birmingham on Sharing best practice for safer births which was jointly chaired by Baroness Cumberlege and Sir Cyril Chantler. The programme was facilitated by maternity related stakeholders including the President of the RCOG and Chief Executive of the Royal College of Midwives. The conference sends a strong signal on the impact we are having across the system to bring stakeholders together. In addition, seven regional primary care events have been taking place across the country and a number of claims regional engagement events are scheduled to take place between January to March 2020. The events we run are, depending on the subject matter, open to all teams from each organisation. There had been feedback that there was a lack of activity being taken forward by NHS Resolution for claims leads and so regional claims events have now been scheduled.

There has been a lot of activity on twitter and we now have over 4000 followers showing that our social media presence is increasing.

Our customer survey is currently live and to date we have received 107 responses.

In terms of our digital communications, there has been a lot of activity within the Safety and Learning function including a number of videos on consent and saying sorry. The Being Fair webinar with Suzette Woodward on a just culture was also published. The NHS Resolution website has seen an increase in activity with 145,000 users.

The Board noted the Communications and Stakeholder Engagement Report.

5 Key Developments

5.1 There were no items to consider.

6 Oversight of Key Projects

6.1 There were no issues to report.

7 Board Committee Reports and Minutes

7.1 RemCo Annual Report and Terms of Reference

Performance and compliance of the Remuneration and Terms of Service Committee for the period January 2019 to December 2019 was presented.

The Committee considered its performance as satisfactory for the reporting period and that it has discharged all its responsibilities as detailed in the Terms of Reference.

The Board approved the revised Remuneration and Terms of Service Committee Terms of Reference.

8 Other matters requiring Board attention

There were no issues to report.

9 Any Other Business

9.1 Board Effectiveness Review

The Senior Adviser to the Chief Executive attended to update the Board on progress against the recommendations in the Board Effectiveness Review together with an updated plan and future priority areas for development.

A significant amount of work has taken place around stakeholder engagement in terms of bringing the outside in and thinking about how we can use the strategy refresh as an opportunity to engage more and learn from organisations that are doing well.

There are two areas which we have put on hold: Board Team building with the potential of using psychometric data and a Board education session on systems leadership, pending transition arrangements for a new incoming chairperson.

There has been feedback on the format of Board awaydays which will be taken forward.

A question was raised that the Board effectiveness review recommendations reference the Board discussing risks and reviewing the strategic risk register and this has now been included on the Board schedule for this assurance to take place twice yearly.

The Board noted progress against the Board effectiveness review recommendations and a further update will be brought to the March Board.

10 Date and Venue for next meeting

10.1 The next Board meeting is scheduled for Tuesday 10th March 2020 at 10.00am, at Thomas House, 84 Eccleston Square, London SW1V 1LP.

An additional Board Awayday is scheduled on Wednesday 19th February from 10.00am - 2.00pm at Thomas House.

Signed

Date

Board Actions – January 2020

Part 1

Action Ref No.	Date of Board Meeting	Part 1 or Part 2	Reference	Action	Date action due	Officer responsible	RAG rating	Status of action
19.10	11.9.19	Part 1	Sharing learning from claims related to specific cases	Explore what further mechanisms could be used for sharing learning from claims related to specific incidents	ASAP	DoCM with DoS&L	CLOSED	Discussion taken place and ongoing work continuing in conjunction with the TOM work.
19.12	11.9.19	Part 1	One year on - evaluation of our publication 'learning from suicide related claims'	Stakeholders to be reminded of the recommendations they are signed up to.	ASAP	DoS&L	CLOSED	This report was recirculated via social media and stake holders are being followed up during next few weeks, and plans being developed to explore incentive scheme linked the report's recommendations
19.13	13.11.19	Part 1	GP support recruitment adverts	DoS&L to share the adverts with the Board.	ASAP	DoS&L	CLOSED	Appointment offer made
19.14	13.11.19	Part 1	Board members attendance at team meetings	Executive Directors to ensure that Board members are invited to attend team meetings across the organisation.	ASAP	Executive Directors	CLOSED	This is an ongoing invitation which will continue. Action is therefore closed.
19.15	13.11.19	Part 1	Strategic Risk Register mapping with key objectives	DoF to ensure that the strategic risk register is mapped with the organisation's key objectives.	For next ARC meeting	DoF	CLOSED	Has been completed, but will review for Strategy Refresh for ARC on 12 th February
20.01	21.1.20	Part 1	Ways of Working / office move	A session or detailed paper to be brought to Board for discussion.	July Board	DoPPA		Scheduled for July Board, after advisory audit and first phase of co-design
20.02	21.1.20	Part 1	E,D&I	The HoHR&OD to bring a paper on the breakdown of E,D&I figures split between the London and Leeds offices.	To be included in next HR report in July 2020	HoHR&OD		The EDI split for London and Leeds will be included in the next HR Report in July 2020.
20.03	21.1.20	Part 1	Gender Pay Gap Report	The GPG report which is to go on the NHS Resolution website to include under gender profile by pay band the total number of staff.	ASAP once published	HoHR&OD		