

Board meeting minutes (Part 1)

17th July 2019

10:00 – 15:30

Venue: Room G-01, Ground Floor, 151 Buckingham Palace Road,
London SW1W 9SZ

Present	
Ian Dilks	Chair
Keith Edmonds	Non-Executive Director
Mike Pinkerton	Non-Executive Director
Charlotte Moar	Non-Executive Director
Nigel Trout	Non-Executive Director
Mike Durkin	Non-Executive Director (Associate Board Member)
Helen Vernon	Chief Executive
Denise Chaffer	Director of Safety & Learning
Vicky Voller	Director of Practitioner Performance Advice
John Mead	Technical Claims Director (Associate Board Member)
In attendance	
Simon Hammond	Director of Claims Management
Cheryl Lynch	Representative of DHSC Sponsor Team
Nick Rigg	Corporate Communications Lead
Laura Yearsley	Deputy Director of Policy and Strategy
Sara Pollock	Deputy Director of Finance and Planning
Tinku Mitra	Head of Information Governance
Julia Wellard	Executive Personal Assistant (Minutes)
Apologies	
Sam Everington	Non-Executive Director (Associate Board Member)
Joanne Evans	Director of Finance & Corporate Planning

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 Sam Everington and Joanne Evans.

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 22nd May 2019

The minutes of the Board meeting held on Wednesday 22nd May 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.

The following actions were rolled forward:

- Learning from suicide related claims: A thematic review of NHS Resolution data – Director of Safety and Learning to bring a report back to Board in 6-9 months on what has happened since the report was launched – action due September 2019.
- Board Effectiveness Review - Chair and Chief Executive to review the actions from the review with a proposal to be brought back to Board for discussion before the end of the year. This will be on the agenda for the Board awayday in October and as necessary brought to the November 2019 Board meeting.

There following actions were closed.

- CNSGP – Director of Membership and Stakeholder Engagement to make contact with the RCGP to suggest a speaking slot or workshop at their annual conference. Contact was made but the RCGP conference programme has already been set.

2 Operational items

2.1 Chief Executive's Report

Annual Report and Accounts 2018/19

The Annual Report and Accounts 2018/19 were laid before Parliament on Thursday 11th July alongside other DHSC key health bodies. A copy of the report is available on our website together with an article. There has been some press interest, in particular we received correspondence from The Times which we are responding to. Our newsletter, Resolution Matters, was distributed this week which also headlined the Annual Report and Accounts.

Discount rate

On Monday 16th July the Lord Chancellor announced that the discount rate used to calculate compensation for personal injuries will change to minus 0.25% from minus 0.75% from 5 August 2019 and be reviewed within five years. The discount rate, which determines the lump sum victims of accidents should be compensated with, corresponds to the net return the victims should expect from their investment. The rate takes into account returns available to investors and investments made, allowances for tax, inflation and investment management costs, as well as wider economic factors. A lower Odgen rate requires insurers to make larger lump sum payments on personal injury claims, as it assumes lower annual investment returns for that amount.

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 May 2019 together with an updated position at the end of June 2019 was presented. In terms of the Departmental Expenditure Limit (DEL) budgets, the year to date net expenditure on all budgets is £64m overspent. We are still however waiting to hear on the budget for PIDR costs noting that the rate has recently changed from -0.75% to -0.25% which will take effect from 5th August. Indemnity scheme budgets, excluding the PIDR impact, are overspent against budget by £20m and year to date expenditure across all schemes in relation to PIDR is £45m. The new CNSGP scheme will be included in future performance reports but to date there has been no expenditure for the scheme.

In terms of Annually Managed Expenditure (AME), a budget of £8.4bn has been agreed for this year and work on updating the 2019/20 AME forecasts and the assumptions underpinning them is to be carried out over the coming months.

As mentioned earlier, the Annual Report and Accounts were laid last week. The Finance team are working through the lessons learned on the process which will be fed back to the Audit and Risk Committee meeting in October.

In terms of performance relating to the number of invoices paid within 30 days, this continues to remain below target (95%) at 81%. It is expected that achievement will improve considerably once the new finance system is in place.

Claims Performance

In terms of the open book (number of open claims under all schemes), for the three principal indemnity schemes for the financial year up to 31st May, numbers of claims and incident reports received for CNST, LTPS and CNSGP are 1,879, 636 and 8 respectively compared with 1,882, 628 and 0 in the same period in 2018/19 indicating that claims volumes appear to be static with little variance when considering overall averages and little movement in claims numbers in the entirety. Specialties and profiles of claims also appear to be static with the previous reporting period in 2018/19.

It was noted that it will be some time before we can report on the profile of specialties or patterns for the new CNSGP scheme but the number of claims and incident reports received will be provided.

Practitioner Performance Advice

An update on the advice requested by sector and professional group at 31st May 2019 was presented. The Advice service is reviewing the five month trend in detail as recent figures have seen a further decrease of 17% in new cases referred. The Advice team are exploring possible reasons and initial analysis indicates that this could relate to a number of issues including change in case adviser allocations to individual organisations, primary care reorganisation and decrease in awareness of Advice

services. In addition, following the reorganisation of NHS England and NHS Improvement moving to align their operations, NHS England's operating model has moved from delivery through 14 local offices to seven regional local teams. Responsibility for contracting and managing the delivery of primary medical care has currently been delegated to CCGs and it is considered that these changes will also have an impact on the number of cases referred to the Advice service. We will be looking to establish partnership working on these issues with the relevant senior contacts at NHS England / Improvement and a meeting will be arranged in order to brief E/I on the work the Advice service provides.

Primary Care Appeals

All KPIs for the reporting period have been fully met save for the KPI for the percentage of appeals where Decision Maker agreed with recommendation of Case Manager. This related to there being a low volume of cases through Committee during the period meaning figures were skewed. There were only two cases where the Committee did not agree with the Case Manager: one case involved the Appeal Committee referring the appeal to a hearing rather than considering it on the papers, and one case involved the Appeal Committee allowing the appeal after receiving advice from the pharmacy member.

Safety and Learning

All KPIs have been fully met for the year to date. There has been a lot of activity by the Safety and Learning team in a short period of time and thought needs to be given to the demand on resources. A number of national conferences have been held and there is a continued demand for these events to be repeated which are extremely resource intensive and we will need to think about this going forward so that it can be fed into business planning. We are now beginning to capture speakers on film which we can use through webinars or remotely., However, feedback has indicated that clinicians across different specialties value coming together to share experiences and learning as being the most effective format.

We will be looking to work with other organisations to run events on a joint basis in order to share resources, funding and facilities. In particular, the GMC were involved in our consent conference in terms of looking at how junior doctors are currently dealing with consent and following a recent meeting with the GMC, it was interesting to see how our strategies are aligned.

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

2.3 HR&OD Report

Michael Humphris, 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 June 2018 to May 2019.

Key activities of note were:

High Level Objectives – the HR&OD objectives were presented together with key activities and next steps to be taken for each objective. The HR&OD function are procuring a payroll provider from September 2019. The previous payroll provider was

procured through DHSC, however DHSC are no longer involved in this process. In the meantime, we have secured a six month extension with the current provider to the end of the financial year. It was considered whether the potential change in payroll provider, being a core change in system, should have been reported to the ARC so that it is included on the strategic risk register and the Head of HR confirmed that this is included on the HR&OD risk register. It should be noted that there will not be a change to the system and rather that any new provider will be given access to our system.

Establishment - The number of staff in post has risen by a further 13.4 FTE since October and turnover has remained consistent at around 11% despite an increase in headcount over the last year.

Agency Workers – There has been a slight increase with a total of 52 agency workers engaged during the reporting period which is mainly as a result of a rise in activity within the IT and Facilities department and Corporate Governance where vacancies have been covered pending permanent recruitment to the roles. The length of agency worker assignments remains positive and most are on a six month threshold with those beyond this turning into substantive offers or fixed term contracts. All agency activities continue to be monitored through the Workforce Strategy Group on a case by case basis to ensure that we are not extending them unnecessarily.

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 8.7%. Leavers are from across the organisation and there are no trends or patterns that we are concerned about.

Absence – sickness absence for the reporting period has been relatively low with a slight increase noted throughout November 2018 through to February 2019 and we are now able to report this on a rolling 12 month basis. Despite the increase, the organisation overall continues to report below the national average rate which is extremely positive.

There continues to be a large proportion of sickness attributed to anxiety, stress, depression and other psychiatric illnesses. However this relates to a total of 15 individual employees, six of whom have since left the organisation which made up over 34% of the total days lost. Four of the other cases related to bereavements whilst others related to both workplace and personal matters. All the absences relating to anxiety, stress, depression and other psychiatric illnesses are continually monitored, in terms of being managed and supported. The capturing of absence sub categories will be included in the new contracted payroll provision which is due to change from September 2019 onwards.

Employee Relations - Since the last reporting period, there have been five new employee relations cases which relate to absences and dignity at work issues and are being managed to resolution in a timely manner and where possible on an informal basis. The outstanding Employment Tribunal (ET) case hearing which commenced in April 2018 was concluded in June 2019.

HR and OD Supportive Activities - The HR&OD team continue to implement and deliver a number of workstreams to support the delivery of the Workforce and Organisational Development Strategy. In particular we now have an apprenticeship scheme in place

and we are arranging a number of apprenticeships within the claims function in terms of establishing a pathway to develop in the claims area. The proposal is to have a rolling programme of apprenticeships which will also feed into succession planning. This means that we are now utilising our apprenticeship levy which we had not been doing previously.

Appraisals – annual appraisals are underway and statistics on completion rates, approximately at 57%, are reported regularly to the Senior Management Team. We are already three months into the cycle and the Board considered they needed assurance that they were being completed and that we should be more towards the 90% mark. It was pointed out that most appraisals had been completed and that it was mainly the paperwork which was a factor due to workloads and this needs to be reflected on for next year in terms of there being a process confirming that the appraisal has happened, followed by compliance with the paperwork and objectives.

Mandatory and Statutory Training – There are seven Mandatory and Statutory Training (MAST) courses with which all staff are required to comply, with Non-Executive Directors (NEDs) required to complete the information governance and equality and diversity training. MAST compliance has remained consistently high since the last reporting period with all categories, except fraud and bribery awareness, being over 90% compliant which is a significant improvement from 12 months ago. Fraud and bribery awareness training was introduced in 2018 with all staff attending a session with our LCFS and is also now included as part of the corporate induction programme. The annual renewal is already currently being rolled out with a number of sessions already run and planned. We are looking at how we can increase compliance on this training and the HR&OD team are looking at introducing an e-learning package.

Equality and Diversity - Our organisational profile as at 31st May 2019 remains unchanged and shows we are closely aligned to the regional figures of 60% white and 40% BME at 64% and 35% respectively, with a slight underrepresentation within the BAME categories. An equality, diversity and inclusion session was held with the Senior Management Team and other key stakeholders from across the organisation which explored the information and associated recommendations from the race equality report and what it means for the organisation. As a result of the session, we have committed to voluntarily publishing our workforce race equality data. We have also, as part of our Race at Work charter, committed to have an executive sponsor who is the Director of Finance and Corporate Planning. The HR&OD team are working on mapping an equality, diversity and inclusion agenda for the next three years.

The Head of HR&OD was thanked for the report.

The Chair reported that following the letter received about the Lord Holmes of Richmond Review into why so few disabled people apply for public appointments and fewer still make it through to appointment, discussed previously, he had responded as agreed. The Chair has received a constructive response which will go into the reading room.

Action: Chair

The Board noted the HR and OD report.

2.4 Complaints Report

A comparative summary of the complaints activity received for Q1 to Q4 for the past three years detailing numbers of complaints received during the year, performance in responding to complaints, and learning points and areas to be taken forward was presented.

Key points of note are that there has been a small decrease in complaints logged as part of the formal complaints process notified through the policy. The claims function remains the subject of the largest number of complaints but this is also in the context of the significant volume of activity. There were a small number of complaints where the outcome was partially or totally upheld and very few go on to Stage two which involves the Chair.

The largest number of complaints relate to claims and in particular claimants who remain dissatisfied with the outcome of their claim and we are exploring further work to consider how we might address this as the procedure is not designed to manage disputes in relation to the outcome of claims.

There is also pressure on staff in dealing with challenging behaviours from complainants and we are looking at providing support and training for staff.

It is uncertain whether we will need a different procedure for CNSGP. We have received information from the MDOs in relation to their complaints processes which we will be able to build into our own complaints policy which is shortly to be reviewed. It was noted that the Corporate Governance team will need dedicated resource to deal with complaints going forward.

The Board noted the Complaints Report.

3 Management proposals requiring Board input or approval

3.1 There were no items to consider.

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.

The Membership and Stakeholder Engagement (MSE) team have had a busy period with the publication of the Annual Report and Accounts for 2018/19 as well as Resolution Matters, and publication of our Being Fair report which supports a just and learning culture for staff and patients following incidents in the NHS. The team have also supported the Getting it Right First Time (GIRFT) programme in distributing data packs.

CNSGP remains the highest volume of page views on the website following the launch of the scheme which is good in terms of people looking at the scope of coverage and it is expected that this trend will continue.

The Being Fair report was launched at this year's Patient Safety Congress which was a good opportunity as the conference is a large event with high attendance. The document was a product of the Faculty of Learning and aims to support staff, patients and their families at the point of incident which was very much a theme of the whole conference. The report has also had support from AvMA. The real challenge will be to focus on what happens next and for organisations to be more candid and supportive. The Being Fair event which was scheduled for the evening of the 24th July is to be postponed due to the holiday period and will be rescheduled to take place in the autumn.

The Safety and Learning team held a joint workshop with HSIB which was facilitated by our DHSC sponsor representative and NHS England / Improvement's DHSC representative and we are working on a joint working agreement and partnership as work is progressing looking at types of cases in the EN scheme and identifying combined concerns and we want to ensure that we are not duplicating effort.

The Safety and Learning team continue to meet with a high number of members and participate and lead on a number of events.

A lunchtime education session was delivered by the Chief Executive supported by the executive team at DHSC recently, facilitated by our DHSC sponsor representative. The aim was to discuss and heighten the understanding of our role and we are considering holding a further event for the wider DHSC team.

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 items to consider.

7 Board Committee Reports and Minutes

7.1 Audit and Risk Committee Meeting Minutes – 8th May 2019

The minutes of the Audit and Risk Committee Meeting held on the 8th May were noted by the Board.

8 Other matters requiring Board attention

8.1 Policies for approval/noting

8.1.1 *Workforce Development Policy*

The Workforce Development Policy has been updated to acknowledge the role of the Deputy Directors and their responsibilities around developing staff, organisational values to acknowledge that staff are treated inline with the values and to support the liP work, clearer links between policy and workforce and organisational development strategy to ensure the policy is rolled out in practice, and funding for learning agreements has been increased from £2,000 to £3,000.

The Board noted the Workforce Development Policy which has been approved by the Senior Management Team.

8.1.2 *Policy For the Management of Fire and Emergency Safety*

The Policy for the Management of Fire and Emergency Safety has been reviewed to include updated job titles, closure of the Northern Ireland office, addition of the office at Leeds Arena Point, closure of the Leeds Trevelyan Square office and various clarification points following Senior Management Team input.

The ARC Chair commented that it was useful to note the annual update on Health and Safety and Fire Risk Assessment.

In terms of emergency contacts, it was noted that we now have an emergency contact card for NEDs, Senior Management Team and other key members of staff and that there needs to be a mechanism in place for ensuring that it is regularly kept up to date, every six months, and that this should be written into a policy.

Action: HoG

The Board approved the Policy for the Management of Fire and Emergency Safety.

8.2 *Hospitality Report*

The Board noted the Hospitality Report.

8.3 *Code of Conduct*

The Code of Conduct for Board members of Public Bodies has been revised by the Cabinet Office and sets out the personal and professional standards expected from non-executive Board members of UK public bodies forming part of their terms of appointment. The updated 2019 Code includes provisions making clear that bullying, harassment or other discriminatory behaviour will not be tolerated. There is also a new requirement for Board members to notify the DHSC sponsor department of any

bankruptcy, current police investigation, unspent criminal conviction or disqualification as a company director.

The new Code also reminds office holders of their role in promoting diversity and inclusivity within their organisation, including at Board level.

The Code's obligations will be taken into account when reviewing our Standing Orders and Standing Financial Instructions.

The Board noted the Code of Conduct for Board members of Public Bodies.

9 Any Other Business

9.1 *Transparency update: policy on openness*

Attendance at Part 1 Board meetings has been considered by the Board and it was agreed that we should test our overall approach to openness against our statements made in the Policy on Openness which was approved by the Board in January 2018, consider how much information we are putting into the public domain and measure ourselves against the government transparency commitment. There are two areas where we could be more proactive which is around ensuring that Part 1 Board papers are promptly put on our website and the proposal is that this should be done within seven working days of the meeting being held. It was also considered that further work was needed around our transparency commitments on contracts although this is fairly up to date on our website.

Board members were asked to feed back to the Director of Membership and Stakeholder Engagement whether they considered there was anything further we should be doing to ensure that we are as open and transparent as possible.

Wording has been agreed with the Senior Management Team regarding public attendance at Board meetings as follows:

Members of the public can register for attendance at our Annual General Meeting once the date is published. If anyone wishes to attend, please email julia.wellard@resolution.nhs.uk. Our Board holds regular meetings which are not open to public attendance but we do aim where possible to publish papers and minutes within seven days of these meetings.

Where papers are not published this is because they fall in one or more of the categories shown below:

- Any matter arising from a contract of employment or otherwise concerning an employee and/or officer of the Board
- Contract negotiations and all other commercially sensitive matters, including comments on the performance of suppliers to NHS Resolution
- Actual or anticipated litigation, including any arbitration or dispute resolution process
- Any matter which involves the consideration of confidential information held by or provided to NHS Resolution including information which cannot be disclosed without breaching Data Protection principles.

- Relates to any matter relevant to the prevention or detection of crime or the prosecution of offenders.
- Relates to matters which if disclosed may adversely affect the delivery of our strategic objectives
- Relates to early stages in developing policy or consultations where matters under consideration are not yet in the public domain.
- Contains information provided to NHS Resolution under license which prohibits publication, or by other bodies on the understanding that confidentiality of such information will be preserved.
- Minutes of meetings which have not yet been approved.

Work continues across functions to ensure that the website is up to date with information. Our Publication Scheme details the classes of information which a public authority publishes or intends to publish which is a requirement of the Freedom of Information Act.

The Board noted the update on compliance with our policy on openness.

9.2 *World Patient Safety Day – 17th September*

Dr Mike Durkin reported that the Foreign Secretary is proposing to host a conference in London on World Patient Safety day on 17th September as well as create a global patient safety collaborative and global action on patient safety.

In terms of the collaborative, it has been announced that the academic partner will be Imperial College London and Dr Durkin has been asked to be the Director. This will give an opportunity to learn and spread learning in terms of safety to a more diverse group.

It was noted that NHS Resolution would be willing to participate in the conference and planning.

It was suggested whether the NHS Confederation Conference and Patient Safety Congress could be aligned going forward which would make it a very powerful conference.

10 **Date and Venue for next meeting**

- 10.1 The next Board meeting is scheduled for Wednesday 11th September 2019 at 10.00am, venue tbc.

Signed

Date