

Board meeting minutes (Part 1)

Tuesday 12 July 2022

10:00 – 15:00

DAC Beachcroft, 25 Walbrook, London EC4N 8AF

Present	
Mike Pinkerton	Interim Chair
Charlotte Moar	Non-Executive Director
Nigel Trout	Non-Executive Director
Janice Barber	Non-Executive Director
Mike Durkin	Non-Executive Director (Associate Board Member)
Helen Vernon	Chief Executive
Vicky Voller	Director of Advice and Appeals
Joanne Evans	Director of Finance & Corporate Planning
Denise Chaffer	Director of Safety & Learning
John Mead	Technical Claims Director (Associate Board Member)
In attendance	
Simon Hammond	Director of Claims Management
Ian Adams	Director of Membership and Stakeholder Engagement
Niamh McKenna	Chief Information Officer
David Gurusinghe	Deputy Director, Policy, Strategy and Transformation
Catherine O'Sullivan	Head of Corporate & Information Governance
Julia Wellard	Executive Personal Assistant (Minutes)
Apologies	
Lesley Regan	Non-Executive Director
Sam Everington	Non-Executive Director (Associate Board Member)

1 Administrative matters

1.1 Chair's opening remarks and apologies

The Chair welcomed everyone to the meeting.

Apologies were received from Sam Everington and Lesley Regan.

A client story from two Responsible Officers (RO) within each of their organisations was shown. The RO is a senior clinician in a designated body who is responsible for ensuring the doctors for whom they act continue to practice safely and are supported

and managed in maintaining their professional standards. The following comments were raised following the video:

Following the Shipman inquiry, there was a need to address performance measures, monitoring and performance amongst doctors and the role of the GMC. The Responsible Officer role was developed to ensure organisations have in place processes that provide a framework within which doctors are encouraged to maintain and improve their practice, as well as oversee the handling of poor conduct. There is more of a collaborative approach to understanding conduct and behaviour and the way it is practised in acute settings, but more so in primary care. We are yet to move into the area of looking at performance in terms of technical skills and abilities and the triangulation of data to demonstrate when practitioners are not performing as well as others which can then be translated into local knowledge and a forward plan for the individual. Being more intelligent about using our data and analytics on predictability and balancing that with performance improvement would be extremely valuable, particularly if the knowledge was available across the country.

The Responsible Officers role is a difficult role in practice and the exclusions advice is a good example of how we are supporting the front line to do the right thing in the right order to support their staff in avoiding exclusions.

Reference was made to Joe Rafferty and his team who are regarded as exemplars in restorative just culture in practice providing an overview of principles and practices. A number of trusts have been working with his team to look at their processes. There is not an equivalent exemplar in the RO field where the service recognises that a particular individual is getting it right. The North East have developed a network of ROs who meet and use each other as mentors and it was discussed whether NHS Resolution could proactively create an externally supported team of ROs in this space.

There is a clear focus on behaviours and we are looking at a solution in the work we are doing around Being Fair part two. The RO roles are often in addition to the day job and these can be bigger roles in the independent sector and it was considered that our relationship with the independent sector could be much stronger. It was suggested that it would be helpful to have an update paper on the independent sector particularly with the new Integrated Care Boards and how they will be working with the independent sector. There is a medical practitioners assurance framework which the Independent Healthcare Providers Network (IHPN) has created and we have recently been involved with this as a result of the Paterson group in rewriting the framework and signposting to both Being Fair. Spire are talking about their Board using the Just and Learning Charter as a development tool with their entire group. It was noted that the Safety and Learning team members attend RO networks and have presented at some of the meetings and there is potential to do more with them.

Action: VV/DC

It was noted that Sam Everington and Lesley Regan had attended a film about a practitioner story and the Director of Advice and Appeals contacted the producer to seek permission to share the film with the Board and the Senior Management Team. The story is good example of a lived experience.

1.2 Declaration of conflicts of interest of members

There were no conflicts of interest not previously noted.

1.3 Minutes of Board Meeting held on 24th May 2022

Subject to a minor amendment, the minutes of the Board meeting held on Tuesday 24th May 2022 were approved for signature by the Interim Chair.

1.4 Review of actions from Board meetings

Action 22.05 is rolled forward to the November 2022 Board.

Action 22.02 and 22.04 were completed and removed from the action log.

2 Operational items

2.1 Chief Executive's Report

CQC and NHSR Memorandum of Understanding (MoU)

NHS Resolution and the Care Quality Commission (CQC) have signed a Memorandum of Understanding which sets out how we will work together to share information.

The MoU provides a framework for the working relationship between our respective organisations and confirms that we will act in the public interest by sharing information about the quality of NHS services, including any concerns or evidence of safety risk.

It was noted that this will help to mitigate the strategic risk which is outside appetite around failure to identify something within the data we hold that could lead to concerns.

The data sharing agreements which come under the MoU are currently being worked on and it was requested that the Board be notified when a data sharing agreement is agreed. Time lags (from the incident until a claim is notified) will remain a constraint.

New Secretary of State for Health

Steve Barclay, who was a former junior minister, is the new Secretary of State for Health. He was also more recently Chief Secretary to the Treasury and is therefore familiar with the cross government work.

Maria Caulfield has been promoted to Minister of State at the Department of Health and Social Care and is replaced by James Morris as Parliamentary Under Secretary of State.

NHS Oversight Framework 2022/23

NHS England have published the NHS Oversight Framework which describes NHS England's approach to oversight of integrated care boards and trusts for 2022/23. The Framework has some hard metrics and has references to maternity.

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

The financial position at the end of May was showing as an overspend and since then the rate of spend has slowed down and the overspend as at the end of June was £0.5m. There have been a number of high value claims going through in the first few months of the year and there is a piece of work being taken forward to see whether the position is likely to continue. There are claims in the pipeline that did not settle in 2021 which worked through into 2021/22. There has been an increase in the rate of spend in 2021/22 by 8% and there is 8% in this year's budget across the scheme, currently running at approximately an 11% rate which will need to be monitored.

In terms of the prompt payment policy, it was noted that performance is below target at 95%. The reason for missing the target for this report relates specifically to the system downtime issues experienced earlier in the year. The electronic finance system is a good system but people are still learning how to use it. The Digital Data and Technology team have the most external contracts with suppliers and the Chief Information Officer has created a new service operations team who will be responsible for processing payments to ensure that the compliance is improved.

Advice

The open case book is up at the moment however as part of the work that is being undertaken with the Core Systems Programme (CSP) we are examining every open case as part of the migration and therefore this will change. It also partly relates to work undertaken in the reporting period on our regional boundaries and the percentage of organisations to different advisors which needs to be examined.

The practitioner characteristics Insights publication was recently published.

Reference was made to the 24 months plus exclusions and whether these are actively checked. It was confirmed that these are regularly reviewed and there is ongoing regulatory or legal proceedings. These have now gone down to six.

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

2.3 [Complaints Annual Report 2021/22](#)

The Complaints Annual Report was presented highlighting complaints logged/received from April 2021 to March 2022 with a comparison of the previous three years.

Following a review in year, the policy has been changed from two to ten working days for a response which will be monitored to see if this helps with improvement when complaints go to stage one or on to stage two.

There has been a slight increase from last year with 35 complaints received. The claims management function remains the subject of the largest number of complaints at 28 which were recorded as a formal complaint.

In relation to the increase in number of informal complaints relating to emails being missed with the move to nhs.net meaning claimants had not heard from claims handlers on existing claims, all NHS Resolution emails were auto-forwarded on to the new nhs.net mail. However some emails were going into spam folders which people were not aware of and staff have been reminded to regularly check the spam folder.

It was noted that the action relating to NHS complaint response letters undertaken by the University of Nottingham in collaboration with NHS Resolution and Browne Jacobson relates to NHS complaints letters and not NHS Resolution complaint letters and therefore no data had been shared with the University. This will be made clear in the report.

Under complaints within scope of policy, it was noted that there was an increase in complaints upheld in 2021/22. We now have a complaints manager who is looking at triangulation of feedback and lessons learned from the claims function in order to feed that back into the improvement of the service. This is reported to the Claims Leadership Team and Team Leaders who receive the complaints and investigations of complaints. From a breakdown of these claims, there was no theme or trend.

The reference to there being two complaints relating to the Advice service was incorrect and this is one complaint which will be amended in the report.

NHS Resolution works closely with the PHSO and the Chair and Chief Executive have regular quad meetings with the PHSO Chair and Chief Executive. Learning has been shared and we have improved the style of complaint responses and provided input to the complaints standard and publication. The Director of Claims Management also regularly meets with the PHSO team.

Appendix five in the report lists the complaints themes to which responses were provided under the policy, the reasons for the complaint and what we are doing about them and it would be helpful to know which ones were upheld. This will be amended in the report.

The Board noted the complaints report.

2.4 [Inquiries Update](#)

An update was provided on the current engagement with Statutory Inquiries and Reviews, including a new Independent Urology Inquiry (Northern Ireland) to which we are currently submitting evidence.

It was noted that the terms of reference for the Covid Inquiry have now been published and we are collating NHS Resolution's information to support the inquiry.

The Board noted the inquiries report.

3 [Management proposals requiring Board input or approval](#)

3.1 [Sustainability Committee proposal](#)

NHS Resolution's new strategy for 2022-25 commits us to supporting the NHS ambition of achieving a Net Zero NHS by reviewing the emissions we have direct control over and those that we are able to influence.

The proposal sets out what NHS Resolution are doing in the context of what the wider NHS is doing.

Our suppliers are also included in the proposal in terms of their emissions and other sustainability metrics, and our Head of Procurement has been invited to join the Net Zero and Sustainability Network. The next meeting is scheduled for the 21st July.

It was noted that trusts are using specialist companies to help them ascertain their direct and related carbon foot print and having this at the beginning of the programme will help to demonstrate progress. We have not commissioned a specialist company as yet but it has been discussed in terms of creating a baseline for the different areas.

Board were reminded that NHS Resolution's carbon footprint will be different to a NHS Trust which has an enormous carbon footprint and it would be helpful for the Sustainability Committee to consider the issues and the costs so that we have a clear business case for action and identify where we have leverage through our suppliers, particularly as we are a relatively small organisation located within government properties. One of our biggest issues is our travel which our flexible working arrangements has helped reduce considerably, but we need to have a baseline.

We should also consider the carbon footprint of IT usage.

It will be interesting to see from the work of the committee what we can reasonably do within the footprint. It is important for staff to see that we are engaging with this and they will want to be involved.

The Board noted the position.

4 Liaison with Key Stakeholders

4.1 Liaison with key stakeholders

The non-KPI related information on strategic stakeholder engagement activity co-ordinated by the Membership and Stakeholder Engagement (MSE) and Safety and Learning teams for the the current reporting period was presented.

Messages continue to be disseminated regarding our three year strategy particularly on social media which continues to gain traction.

The team are working closely with the Advice team on the work on exclusions and a suite of resources were launched at the end of April. There have been high levels of penetration and engagement rates with the materials and getting the messages across to specialist audiences which has seen a 100% penetration around the Responsible Officer network which is encouraging.

The team have also been working closely with the Safety and Learning team on learning reports and the EN report will be published shortly. We have distributed a

number of reports including the reports on emergency care claims and these have landed well. Work is being taken forward looking at 'Recommendations to Implementation' and the team are also running a series of webinars which are being promoted by panel firms and are receiving huge interest. Two webinars have already been held on emergency care. The diabetes and lower limb report has received a lot of coverage and there has been a lot of interest particularly as the issues crosses primary care, secondary care, A&E, vascular services, wound care practice nurses etc. We are also currently working with charities and voluntary sector agencies where it was suggested that we could do more. A lot of our materials are directed at clinicians and it was suggested that we should also look into public messaging. The Director of MSE will look into this and how we can engage more with charities going forward as they can be an agent for change alongside commissioners.

Action: DoMSE

The Board noted the liaison with key stakeholders report.

4.2 Engagement with Integrated Care Systems

An update was provided on the implementation of integrated care systems (ICSs) across England including how providers and commissioners will be impacted by the implementation of integrated care systems and key considerations for NHS Resolution.

The Policy, Strategy and Transformation team were thanked for undertaking the background horizon scanning, setting out where the ICSs and ICBs policy came from and what their aspirations are with the new governance in the commissioning system. The infographic Appendix C shows maps where ICSs and ICBs fit overall and how they will operate.

NHS Resolution will mapping out our regional claims offer around the infrastructure of the ICSs which is being replicated across the organisation. There is also the specific work on Maternity Incentive Scheme (MIS) compliance reporting and making sure that commissioners are up to speed with how we operate and in particular what our own expectations are in terms of our future reporting

In terms engaging with ICSs, we are developing an engagement programme and a joint letter from the Chair and Chief Executive recently went to Chairs of ICBs with a welcome pack and further comms are being sent out on behalf of claims management and finance, later in the year, in relation to contributions and risk within their areas.

The NEDs were asked if they have any contacts within the new ICS governance structures at Chair and Chief Executive level to pass these to the Director of MSE.

Action: NEDs

In terms of sharing claims data with ICBs, we are considering pilot work with two quite different ICBs to find out what they want from NHS Resolution so that we can ensure that when we do send data to them it is in a form where they are able to interpret the data in the right way and in the right context, as well ensuring that they understand what our role is, what we can offer them and how best we can offer the service to them.

In terms of our approach to engaging with ICBs, once we understand more about their profile we can work with them on how they want to engage with us. There will be a

range of demands on the ICBs and so ensuring that communication is necessary and valuable is key. In particular, contribution notices will be going out later in the year and we will take the opportunity to look at how this is presented to ICBs in terms of what is happening within their areas.

We will be engaging with ICBs in a strategic way and the claims management function are working towards a new regional infrastructure which the panel firms are also aligned with.

We will need to make sure that we have got the right information going out to ICSs in relation to them taking on CCG responsibilities. The team have been working closely with the Technical Claims Unit in relation to an onboarding pack which brings together the claims management and indemnity cover information and what services we will be providing to them and a letter has gone to all the ICBs stating that they are members of our schemes as stated in the legislation and covered for the liabilities which they have inherited from CCGs and that they are covered for incurred but not reported (IBNR) claims which might arise against the CCGs. The NHS England NHS contract guidance includes that when contracting with the independent sector that they will have to ensure that they have negligence cover. We do continue to reiterate the message about indemnity and due diligence that commissioners need to undertake.

The Board noted the position.

5 Key Developments

- 5.1 There were no items to consider.

6 Oversight of Key Projects

6.1 Strategic activity update

An update was provided on NHS Resolution's key strategic change programmes which was noted by the Board.

It was noted that the WoW programme had now been closed off. The programme had been extremely successful and has demonstrated a number of improved ways of working going forward.

The Board noted the strategic activity update.

7 Board Committee Reports and Minutes

7.1 Audit and Risk Committee (ARC) meeting minutes held on 10th May 2022

The minutes of the Audit and Risk Committee meeting held on 10th May 2022 were noted by the Board.

7.2 People Committee meeting minutes held on 3rd March 2022

The minutes of the People Committee meeting held on 3rd March 2022 were noted by the Board.

The second meeting of the People Committee took place in June. Interviews have been scheduled for an independent member following a good response.

As the Committee matures, the Chair and Charlotte Moar will meet to understand what the risk management relationship and assurance relationship is between the Committee and the Audit and Risk Committee.

8 Other matters requiring Board attention

8.1 Hospitality and Gifts Register

The Hospitality and Gifts Register was presented for 2021/22. It was noted that we actively pre-empt offers being made by suppliers and most of our suppliers know not to offer hospitality. Staff are reminded of the need to report offers of hospitality irrespective of whether they are accepted or not.

It was noted that the Patient Safety Learning event did not happen on the 18th October 2021 and that it took place last week. The register will be amended.

The Board noted the Hospitality and Gifts Register.

9 Any Other Business

9.1 There was no other business to note.

10 Date and Venue for next meeting

10.1 The next Board meeting is scheduled for Tuesday 13th September 2022 at 10.00am – details TBC

Signed

Date