

Board meeting

Minutes of meeting

21 January 2015

**Minutes of Board meeting, 21 January 2015****Present**

Jill Pitkeathley (Chair)
 Harry Cayton (CE)
 Renata Drinkwater
 Ian Hamer
 Andrew Hind
 Antony Townsend
 Stuart MacDonnell
 Jayne Scott

In Attendance

Linda Allan
 Christine Braithwaite
 Rosalyn Hayles
 Majida Serroukh (secretariat)

Observers

Fionnuala Gill, Nursing and Midwifery Council (NMC)
 Lyn Wibberley, Head of Executive Office, General Pharmaceutical Council (GPhC)
 Dinah Godfree, Policy Adviser
 Louise Menzies, Appointments Officer
 Georgina Devoy, Scrutiny Officer
 Jerome Mallon, Policy Seconded (GPhC)

1. Welcome and Introductions & Declarations of Interest

- 1.1 The chair welcomed everyone to the meeting.
- 1.2 The Chair introduced Renata Drinkwater and Antony Townsend as new Board members of the Authority, and asked everyone to introduce themselves.
- 1.3 There were no new declarations of interest from members of the Board.

2. Apologies

- 2.1 There were no apologies from members of the Board.

3. Minutes of meeting held on 19 November 2014

- 3.1 The minutes were approved as an accurate record of the meeting.

4. Matters arising from meeting held on 19 November 2014

- 4.1 There were no matters arising from the meeting held on 19 November that were not otherwise on the agenda.

5. Chair's report

- 5.1 The Chair and Chief Executive had met with the new Scottish Cabinet Secretary for Health, Wellbeing and Sport on 4 December 2014. It was a very positive

meeting, and the Cabinet Secretary expressed the view that she saw the oversight of regulation as a very important issue.

- 5.2 While in Scotland, the Chair and Chief Executive also met with Scottish Government officials. This was also a very helpful meeting, they did express the view that there were sometimes communication issues between the Department of Health and the Scottish Government
- 5.3 On 12 January 2015, the Chair and Chief Executive met with the Chairs and Chief Executives of the regulators to discuss the Authority's proposals to revise the performance review process. It was a well attended meeting with all the Chairs and Chief Executives from the regulators present apart from the Chair of the General Osteopathic Council (GOsC) who had to send apologies.
- 5.4 The Chair confirmed that the new Board members had attended the Scrutiny Committee as part of their induction, as well as having a series of induction meetings with members of staff.
- 5.5 It was agreed that a discussion would have to follow regarding the composition of the Committees, both in appraisals of Board members with the Chair and at the strategic planning meeting in September 2015. In the interim, it was agreed the Audit and Risk Committee would remain as it is, and the new Board members would serve on the Scrutiny Committee.
- 5.6 There are growing concerns around the legislative changes currently underway, especially around the section 60 order on the GMC Right to Appeal, the Private Members Bill (PMB) and the Deregulation Bill, all of which will have an impact on the Authority.

6. Chief Executive's report

Section 29

- 6.1 There were now eight live appeals Six hearings have been vacated and settled by way of consent orders.
- 6.2 In one case recently, the Authority won an appeal in relation to a GCC case of under-prosecution for a Chiropractor who was not registered and practicing without insurance. The Court ordered that the case be reheard and a charge of dishonesty brought. In its new consideration the panel determined a lesser sanction. This is a concern to the Authority as it undermines the section 29 process.

Initial stages audit

- 6.3 There are two audit reports still outstanding, the General Chiropractic Council's (GCC) and the Nursing and Midwifery Council's (NMC's). The GCC's report is due to be published shortly by the end of January 2015. The NMC's report is currently being drafted, and will be shared with the NMC for factual accuracy, and the Authority hopes to publish in March 2015.

Legislative reform

- 6.4 The Department of Health (the Department) published the Consultation responses on the section 60 order on the GMC Right of Appeal. 75% of respondents felt that the GMC should not have the right of appeal. We continue to voice our concerns that this will complicate and not simplify the process, and will not add to public protection. The only concession regarding these changes

is that the Department has given the Authority an assurance that the changes will not be implemented until we are ready to work under the new system.

Board members regretted that the GMC had pushed ahead with these changes despite their lack of justification in the public interest.

Health Committee

- 6.5 The Health Select Committee have confirmed that they are intending to hold a hearing on the General Dental Council (GDC) in March 2015. The deadline for submitting evidence is 23 February 2015.

7. Finance Report

- 7.1 The Director of Governance and Operations confirmed that we have now received a second tranche of money to the value of £72,000 from the Department for additional subvention for the Accredited Registers programme. This should mean that the income and expenditure will balance at year end.
- 7.2 The number of Section 29 cases and the associated legal costs continue to increase, however due to our success rates we have been able to recover a portion of the legal costs which offsets some of the additional expenditure.
- 7.3 It was confirmed that we are still operating under a Letter of Comfort from the Department in relation to Section 29 costs which exceeded our budget.
- 7.4 The Department in a phone call to the Chief Executive has said that they expect the new funding arrangements to come into effect from 1 August 2015, despite an expectation from the last Transition Group meeting in December 2014 that the order would not come into effect until the 1 October 2015.
- 7.5 This raised various issues for the Authority. Due to the election we would not be able to start the consultation until 11 May 2015 at the earliest concluding on 5 July 2015 (8 week consultation period). According to the current timetable it will take at least eight weeks from the close of consultation to receipt of monies, which would be the end of September, not 1 August. This timetable is dependent on the Privy Council being available to request the Authority to go to Consultation and determine the submission as well as invoices being paid in 15 days.
- 7.6 Accordingly, there is a need to consider how to fund the Authority beyond 1 August 2015 to at least 31 August 2015 and possibly beyond. The Department has suggested that this could be in a loan from the Department which the Authority would have to pay back. The Authority however could not agree to a loan as it would at the time have no certainty of income.
- 7.7 Also as we would not be able to collect fees from the regulators until after the Privy Council had determined the level of fee payable, we would have to collect the money retrospectively. This will not only have an impact on the Authority but also the regulators.
- 7.8 A question was raised as to whether the Authority would be solvent during this period. It was agreed that we would need a reassurance from the Department, and that we would need an updated letter of Going Concern.
- 7.9 Two other issues also remain unresolved concerning corporation tax and the Authority's ability to build up a reserve to manage its own operational risks in

the future. The Director of Governance and Operations confirmed that Grant Thornton is working on a submission for the Authority to put to put HMRC. We also raised with the Department, during the consultation, whether the fee income could be carried forward to the next period as a liability. The Department has not given the Authority a definitive answer.

7.10 The Department had promised the Authority that they would provide a question and answers document that could be put before the Board which they have not provided.

7.11 Given all of the above, it was agreed by the Board that if the Department is unable to address the concerns raised by the Authority, that the Chair should write to the Minister outlining all of our concerns, in order to ensure that our concerns were raised and formally noted.

8. Audit and Risk Committee Update

8.1 Jayne Scott chaired the Audit and Risk Committee on 3 December and wanted to draw the Boards attention to developments regarding the steps taken by the Authority to address the IT resilience at the Authority.

8.2 Jayne Scott expressed that the Committee felt reassured by the provision and value for money that would be provided by the potential new IT provider.

9. Scrutiny Committee update

9.1 The new Board members attended the Scrutiny Committee and so it mostly acted as way of an introductory meeting into the keys areas of work of the Scrutiny team, and the role of the Scrutiny Committee which acts as a form of internal quality assurance for most of the Authority's statutory functions.

9.2 The meeting also took a retrospective approach and looked at the work of the Committee the previous year and the likely challenges for 2015. With this in mind, the Committee looked at the Terms of Reference to consider whether it needed refreshing. Antony Townsend had drafted some amendments, which it was agreed would be circulated to the Board for approval.

Action: MS

10. Update on Accredited Registers

10.1 The Director of Standards and Policy informed the Board that the Accreditation team were preparing a report on the progress of the Accredited Registers programme over the past two years, with a plan to publish at the end of January 2015.

10.2 The report will highlight the work of the Accredited Registers and the contribution they have made to health and social care.

10.3 The report will be shared with the Board before publication.

10.4 The report will be sent to a wide group of stakeholders, and it is hoped that by sharing it with a wider audience we will generate interest in Accredited Registers and the programme.

10.5 The Director of Standards and Policy also informed the Board that the Authority intends to change the appeal process so that appeals are considered by two members of the Board, rather than one. This proposal will be considered by the Scrutiny Committee.

11. Revision of the performance review

11.1 The Director of Scrutiny and Quality reported that progress had been made in developing the revised performance review process. A large number of meetings had taken place with the regulators individually or together. A paper would be considered in more detail in the private session of the meeting..

11.2 It was confirmed that on approval from the Board the intention would be to go to consultation in March 2015.

12. Published Audit Reports

12.1 The Board were updated on this item earlier in the meeting as part of the update from the Chief Executive.

13. Any other business

13.1 There was no other business to report.

14. Questions from members of the public

14.1 Fionnuala Gill from the Nursing and Midwifery Council expressed that it would be useful to have an idea timescales around the consultation of the revision of the performance review subject to the Authority Board's approval. It was confirmed that we would share this information as soon as possible.

14.2 Lyn Wibberley said that she found her first attendance at the Authority's Board meeting interesting, especially discussions on the impact of the fee regulations.

15. Private session of Board

15.1 The Board resolved to exclude the public and went into private session.

15.2 The Board agreed that certain members of staff would be invited to join for certain items on the agenda of the private session.

Approved by the Board on 18 March 2015