

Board meeting
Public minutes of the meeting
16 March 2022



Approved Minutes of the Board meeting, 16 March 2022

Present

Caroline Corby (Chair)
Alan Clamp (Chief Executive)
Renata Drinkwater (RD)
Moi Ali (MA)
Frances Done (FD)
Antony Townsend (AT)
Tom Frawley (TF)
Marcus Longley (ML)

In Attendance

Christine Braithwaite
Mark Stobbs
Jane Carey
Colette Higham
Daisy Blench
Dinah Godfree
Louise Appleby
Dan Scott
Mehrunnisa Lalani
Melanie Venables
Melanie Hueser (Secretariat)

Observers

See below

1. Welcome and Introductions & Declarations of Interest

- 1.1 The Chair welcomed everyone to the virtual Board meeting which included members of staff and external observers: Stuart Hutchinson (GMC), Tom Matthews (GMC), Nasia Nicou-Panayiotou (HCPC), Janet Collins (GPhC), Terry Korateng (GMC) and Suki Sandhar.
- 1.2 AT had been appointed Director of the Channel Islands Financial Ombudsman Service.

2. Apologies

- 2.1 There were no apologies received.

3. Minutes of meeting held on 19 January 2022

- 3.1 The minutes of the last Board meeting held on 19 January 2022 were accepted as a true and correct record and approved, with the following changes noted:
 - **Item 1.3 - MA had stepped down as Chair of Action Against Medical Accidents (AvMA).** MA had stepped down as Chair *and* Trustee.
 - **Item 7.1 JC corrected a slight error: In the reserves table (Table 6) – the £32,000 should be in the restricted, not the unrestricted reserves.** The Board requested that “a slight error” be changed to “an error...”

- **Item 9.2 MA suggested the Clydebank Golden Jubilee Hospital Trust as a venue for the Board meeting.** The organisation's name should be corrected to "NHS Golden Jubilee Board".

Action: MH to amend the January Board minutes.

4. Actions and Matters Arising from the meeting on 19 January 2022

- 4.1 There was one outstanding action from the January meeting: **Item 6.2 - Policy team to discuss Board workshop around patient voice with the team.** It was confirmed that this would be done in April and feed into the Board's strategic planning session at the May Board meeting.

5. Chair's report

- 5.1 The Chair presented the paper and updated the Board on the meeting with the Minister of State for Health which had taken place on the Monday before the Board meeting.
- 5.2 It had been a very positive meeting. The Minister had been complimentary about the Authority. The focus of the meeting was the HCPC improvement plan. The Authority confirmed that there was a high level of commitment from the HCPC's Chair and Chief Executive to improve the situation.
- 5.3 The second topic discussed was the Accredited Registers Programme and how it could assist with the Government's agenda. The Minister suggested that he will make a statement of support in Parliament, which the Authority will draft with officials.
- 5.4 The Minister also welcomed the support and guidance in the debate around which professions should be regulated.
- 5.5 The Minister was invited to the 'State of Regulation' report Parliamentary reception and agreed in principle to record an opening video message for the conference.
- 5.6 The Minister suggested an annual meeting with the Authority.
- 5.7 The Board asked about the Chair's work with the Public Chairs' Forum (PCF). There was some concern around their work on EDI as diversity seemed to be lacking there. The Chair acknowledged that this was an issue but that the commitment to diverse Boards was strong.

Action: CC to raise the diversity issue with the PCF.

- 5.8 The Board **noted** the report.

6. Executive report

- 6.1 The Chief Executive introduced the paper. The fees consultation had been completed and there had been no changes to the business plan and the budget.
- 6.2 A meeting had been held with the interim Chair and the Chief Executive of the GMC.

- 6.3 There was one correction to the report: Item 7.3 should reference that the follow-up research work on ethics was still being considered, not that it had been agreed. The Board enquired what the research procurement process was.
- 6.4 The Board agreed that, as research had been flagged up as an area of concern in the procurement process audit, another look should be taken at both the process and the priorities for research. It was confirmed that the threshold for work needing to go to tender would be reduced from £10,000 to £3,000. The new process will be discussed at the next Audit and Risk Committee. The Board was also interested to understand where the proposed piece of research fitted in with the identified research priorities.
- Action:** CB to confirm to the Board the number of research proposals that were published publicly, and bring a paper to the next Board on the research procurement process.
- 6.5 It was confirmed that the internal audit contract had been awarded to RSM UK.
- 6.6 A correction was made to the Executive report: Item 6.6 Accredited Registers KPIs should read “As of the end of January, all KPIs were up-to-date”. All other KPIs for the Executive report were up to the end of January.
- 6.7 The Board queried whether there was confidence among the Performance Review team that the new process would decrease the amount of time each report took as indicated (from up to nine months to three). It was confirmed that under the new process the bulk of the work will be done in-year rather than after year end, which will speed up the report writing part of the process, therefore three months should be achieved in most cases.
- 6.8 On the recruitment update in Item 9.4, the Board queried whether the three listed posts were advertised externally. This was confirmed. The policy for all temporary and permanent recruitment specified that posts had to be advertised externally.

7. FtP backlog

- 7.1 The Director of Scrutiny and Quality introduced the paper which considered the picture around the regulators’ backlogs of FtP cases following the Covid-19 pandemic. The paper noted that the smaller regulators, perhaps because of their lower caseloads, had not developed serious backlogs.
- 7.2 The larger regulators were in two categories – those who had backlogs before 2020 and where the pandemic had exacerbated the problem, and those where the backlog was primarily due to the pandemic. These regulators were investing resources to deal with the issue but it was too soon to say whether these were effective. The team will keep this under review and assess the improvements when deciding on whether standards will have been met.
- 7.3 A specific focus will be on maintaining the quality of investigations wherever possible, though it should be recognised that it is likely that there will be some cases where the delay will affect outcomes.
- 7.4 The Authority had recognised in the 2020/21 performance review year that the pandemic had created exceptional circumstances. However, it questioned whether it would continue to be appropriate for regulators with very significant delays to continue to meet the Standard in future years and asked that serious consideration should be given to returning the Authority’s approach to its pre-

pandemic Standards. It would be possible to provide detailed narrative about the background the efforts of the regulator to address the delays.

7.5 The Board was concerned that delays might lead to reduced public protection because regulator's panels might be persuaded that the delay amounted to an abuse of process or for some other reason. The Director of Scrutiny and Quality said that it was unlikely that delay, of itself, would be a reason for a case not to be heard. However, it was possible that delays might reduce the quality of the evidence (for example, through witness disengagement) and that, as a result, some cases might fail. The Authority would look very closely at such cases under its s.29 process. However, that process did not apply to decisions at earlier stages and the performance review team would need to look at those decisions through audits and would also look at the data, concerns raised with the Authority and proactive stakeholder engagement.

7.6 The Board agreed that the Authority should keep this issue under close review and that the Scrutiny Committee should consider the concerns raised by the Board and report to the Board later in the year about progress. It would also welcome more insight into the way in which the concerns affected Social Work England.

Action: MS to add an item to the next Scrutiny Committee meeting agenda to discuss the FtP backlog issue and the approach to meeting the standards under the performance review process and make a suggestion for when the next update should come to the Board.

8. Finance report

8.1 The Director of Corporate Services introduced the paper. The forecast surplus will reduce due to potential legal costs that will be discussed in the private session.

8.2 It was explained that the end of year position for s29 recoveries was lower because in two cases the recovery action would not be enforced as the individuals in question could not pay the costs.

8.3 A correction was made: From Table 2 onwards, the second to last column should read 'Variance (Forecast vs Budget)'.

8.4 The Board queried why the Board member remuneration was above budget, and it was explained that this was because the Devolved Administration salary had been adjusted halfway through the year.

8.5 The Board **noted** the finance report.

9. Committee reports

9.1 The Chair thanked the Committees for their helpful and reassuring reports.

9.2 The Chair of the Finance Committee thanked the Committee members for its effective running during the first year.

9.3 The Chair of the Audit and Risk Committee emphasised that the Authority should take its time in analysing the implications and opportunities of the changes brought about by the pandemic before making permanent changes to working arrangements.

- 9.4 The Chair of the Scrutiny Committee highlighted the shift away from its intense focus on the Section 29 work which was working effectively and was now focusing more on Performance Review and Accredited Registers.
- 9.5 The Chair confirmed that the Nominations Committee was working effectively.
- 9.6 The Board decided that an external review of the Committee work would be useful and agreed that autumn 2022 would be a suitable time for it.
- Action:** JC to scope the work and check with the internal auditors whether they would be able to offer a Board effectiveness audit.
- 9.7 The Board **noted** the reports.

10. Risk register

- 10.1 The Chief Executive introduced the paper.
- 10.2 The Board agreed that for items 1 (FtP backlogs), 10 (EDI) and 11 (AR CRB checks) the residual risk scores should be higher as insufficient action had occurred to date to bring them down.
- Action:** AC to update the risk register.
- 10.3 The Board **noted** the paper.

11. EDI update

- 11.1 The Director of Scrutiny and Quality introduced the action plan. The plan had been drafted within the Directorates with the help of the EDI adviser.
- 11.2 The Chair welcomed the commitment by the Authority to EDI and thanked staff for the work that had been done.
- 11.3 The Board discussed the action plan in detail and recognised that the Authority needed to improve its capability as quickly as possible. It was felt that the action plan did not contain enough new initiatives and that many of the actions had been agreed in previous years and not enough progress had been made.
- 11.4 More specific actions, more metrics and more ambition were needed. It was crucial to have measurable activities that could show progress over time.
- 11.5 The Board felt that the pace at which the planned actions were predicted to be completed was too slow. The action plan should be more specific and detailed in its timeline, noting the completion dates but also milestones along the way.
- 11.6 It was felt to be crucial for the Authority to demonstrate its EDI focus and actions to enhance its credibility when commenting on the regulators' and Accredited Registers' EDI commitment and efforts.
- 11.7 The Board agreed that at the same time, and as much as possible, the Authority needed to be holding the regulators to account. The Performance Review EDI standard needed to be revisited and strengthened, with focus on diverse panels, proportionality of FtP processes etc.
- 11.8 The Board requested a greater focus on decisions made by the Authority and emphasised that it was crucial for the Authority's processes, such as s29, not to exacerbate inequalities.

- 11.9 The above points would need to be built into the upcoming strategic and business planning.
- 11.10 The Board suggested that improvements over the last twelve to eighteen months should be highlighted, and that routine activities that were already contributing to the EDI effort should be captured better. An update on the People Strategy would also be useful.
- 11.11 There was a suggestion for a clearer brief to the EDI group and a stronger lead from the Board for the direction the Authority should take in this area.
- Action:** JC to implement the gathering of staff and Board EDI data by the end of March.
- Action:** CC to mention the importance of this at the Corporate Day and afterwards follow this up with a letter, jointly with the EDI Group).
- Action:** AC to plan Q4 external review of the EDI action progress.
- Action:** MH to add EDI timeline to the May Board meeting agenda, and all future agendas for monitoring.
- Action:** MS to send an updated plan to the Board by early April; together with an update from JC on the People Strategy.

12. Governance framework

- 12.1 The Director of Corporate Services introduced the paper. A correction to the Terms of Reference for the Finance Committee: 'The Committee agrees the Board annual uplifts rather than the salary which is agreed by Nominations Committee.' The Board **approved** the change
- 12.2 It was requested that the review of the governance framework was brought in line with the Audit and Risk Committee workplan, as they reviewed it. The Board **approved** the change and the framework would now be reviewed in July.
- 12.3 The Board **noted** the framework.

13. Devolved Administrations (DA) members' reports

- 13.1 The Chair thanked the DA members for their comprehensive reports, highlighting the strong theme of the impact of the pandemic running through all of them.
- 13.2 MA and TF both acknowledged that the impact of the Covid-19 restrictions was still strongly felt in Scotland and Northern Ireland.
- 13.3 ML noted that there was still a lack of understanding of the role of the Authority amongst stakeholders and that it was important to tackle this to ensure that the Authority's work was as effective as possible.
- 13.4 TF highlighted how the Authority's decision to refer the case of Watt to the courts had brought awareness to the organisation's role.
- 13.5 TF also corrected the waiting list figure in his report to 354,000.
- Action:** AC to write a letter to the new NI permanent secretary at the Department of Health, Peter May. TF to supply contact details.
- 13.6 The Board **noted** the reports.

14. State of Regulation Report and Event

14.1 Daisy Blench presented the paper. All report sections had been completed and were being edited. The draft will be circulated to the Directors Group by the end of the week and to the Board next week.

14.2 The original date of the Parliamentary reception was now likely to coincide with the Queen's Speech and the team were exploring alternative dates with the All Party Parliamentary Health Group.

Action: Daisy Blench to update the Board on developments regarding the events' dates as soon as possible.

14.3 The Board commented on the efficient use of the project management tools for this project.

15. Any other business

15.1 There was no other business discussed.

16. Questions from Members of the Public

16.1 There were no questions from observers.

16.2 The Chair thanked the observers for their interest in the Authority.

17. Private session of the Board

17.1 The Board went into the private session of the meeting.



Signed by Chair

Date 18/05/22

Board meeting

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16 March 2022



Action Log

In Progress Overdue Delayed Complete

Mtg. Date	Item No.	Action point	Owner	Date required	Action progress	Status
19 January 2022	6.12	Policy team to discuss Board workshop around patient voice with the team.	CB	Workshop in April 2022	Workshop is being scheduled for October	In Progress
16 March 2022	3.1	Update the January public Board minutes.	MH			Complete
16 March 2022	5.7	Raise the diversity issue at the next PCF meeting.	CC	ASAP	PCF contacted on 18 March 22	Complete
16 March 2022	6.4	Confirm to the Board the number of research proposals that were published publicly, and bring a paper to the next Board on the research procurement process and the rationale for particular pieces of research.	CB	May Board meeting		In Progress
16 March 2022	7.6	Add an item to the next Scrutiny Committee meeting agenda to discuss the FtP backlog issue and make a suggestion for when the next update should come to the Board.	MS	16 June	Planned for the November meeting.	In Progress

16 March 2022	9.6	Scope the Committee auditing work and check with the internal auditors whether they would be able to offer a Board effectiveness audit.	JC		Complete – an ITT will be used in July to commission a Board effectiveness review	
16 March 2022	10.2	Update the risk register - Items 1 (FtP backlogs), 10 (EDI) and 11 (AR CRB checks).	AC		Complete	
16 March 2022	11.11	Implement the gathering of staff and Board EDI data by the end of March.	JC	End of March	Ongoing – expected to complete by 31 May	
16 March 2022	11.11	Mention the importance of EDI data gathering at the Corporate Day and afterwards follow this up with a letter, jointly with the EDI Group.	CC	End of March	Complete	
16 March 2022	11.11	Plan Q4 external review of the EDI action progress.	AC		Confirmed with internal audit	
16 March 2022	11.11	Add EDI timeline to the May Board meeting agenda, and all future agendas for monitoring.	MS	18 May	Tracking document attached to EDI paper.	
16 March 2022	11.11	Send an updated plan to the Board by early April; together with an update from JC on the People Strategy.	MS/JC		Complete	

16 March 2022	13.5	Write a letter to the new NI permanent secretary at the Department of Health, Peter May. TF to supply contact details.	AC/TF	31 May		
16 March 2022	14.2	Update the Board on developments regarding the events' dates as soon as possible.	Daisy Blench		Complete	