

Minutes of Board meeting, 26 May 2016

Present

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

In Attendance

Linda Allan
Christine Braithwaite
Mark Stobbs
Philip Hallam (items 1 – 14)
Majida Serroukh (secretariat)

Observers

Silvia Dominici, Performance Reporting Manager,
NMC (By phone)

1. Welcome and Introductions & Declarations of Interest

- 1.1 The Chair welcomed everyone to the meeting.
- 1.2 Mark Stobbs was welcomed to the meeting having officially taken up his post as Director of Scrutiny and Quality.
- 1.3 There were no Declarations of Interest from members of the Board.

2. Apologies

- 2.1 There were no apologies for the meeting.

3. Minutes of meeting held on 16 March 2016

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

4. Matters arising from meeting held on 16 March 2016

- 4.1 There were no matters arising not otherwise on the agenda.

5. Chair's report

- 5.1 The Chair informed the Board that he had a very positive meeting with Ben Gummer MP, Parliamentary Under-Secretary of State for Care Quality in April 2016. The Minister was very interested in the work of the Authority, he is focused on reforming regulation and would like the Authority to be involved in the consultation.

- 5.2 The Chair has now started a second round of meetings with the chairs of the regulators, and has started building relationships with his counterparts at the regulatory bodies, and hopes this will continue.
- 5.3 The Chair has also written to other key stakeholders, such as NHS Improvement, CQC and NHS England, to arrange meetings with their chairs and hopes to have these scheduled shortly.

6. Chief Executive's report

Section 29

- 6.1 There have been no new appeals since the writing of the report. There are two case meetings scheduled for next week. The Board were informed that since the new test has been applied, we have seen an increase in the number of case meetings, the team will monitor whether this continues and feedback to the Board.
- 6.2 We have won the right to appeal the Doree case, and were granted permission to appeal on all four grounds that we lodged.
- 6.3 We recently lost an appeal in the Court of Sessions in Scotland, we are still awaiting the reasons for the Judges' decisions. The Authority is concerned that this decision may have an impact on patient safety in Scotland. We will wait to receive the reasons of the Judges.

Communications

- 6.4 The Authority website has now been updated and went live on 12 April 2016. The changes will make the website more responsive particularly for mobile use. The content has also been updated. It includes three new facilities. First, 'find a register' function which will make it easier for employers and the public to search both statutory regulators' registers and accredited registers from one place. Second, a 'share your experience' button, to make it easier for people to share their experiences of regulators and accredited registers with us. We have made clearer our role especially in relation to complaints about registrants and about care. We have also included dedicated pages for each regulator. The Board asked for their thanks to Christine Braithwaite and Tahir Omar to put on record for all their work on completing the upgrade.

Research and Policy Development

- 6.5 The College of Registered Nurses of British Columbia has now published the performance review carried out by the Authority. The report has also been published on the Authority website. It was an excellent and thorough piece of work and the Board wanted to put on record their thanks to Douglas Bilton, Assistant Director of Policy, Teena Chowdhury, Scrutiny Manager and Luane Nisbet, Scrutiny Manager.
- 6.6 It is unclear when the Personal Support Workers Review Report will be published. We will await further information from the Ontario Ministry as to their intentions.
- 6.7 NHS England have set up a working group to look at Conflicts of Interest and the Chief Executive has been asked to be a part of the group. The group will be chaired by Sir Malcom Grant.

Meetings and events

- 6.8 We held our first seminar with Scottish stakeholders in Glasgow on 23 March 2016. Sixty five people attended. Feedback from the event suggests that there is an appetite for similar meetings in the future.
- 6.9 The Chief Executive recently gave the inaugural guest lecture at the Sutherland School of Law at the University of Dublin and this will shortly be published on their website.

7. Risk Register and Assurance Framework

Risk Register

- 7.1 At its meeting on 18 November 2015, the Audit and Risk Committee suggested that operational risks should be removed from the risk register which should be focused on strategic risks. The Directors group have looked at differentiating between the risks but noted that removing the operational ones would remove the majority of the risks. This would also mean that risks associated with the delivery of the Authority's work would not be visible to the Board. Accordingly the risks have been labelled but not removed.
- 7.2 The Audit and Risk Committee reviewed the risk register at its meeting on 4 May 2016.
- 7.3 At the meeting the Committee also asked the executive team to relook at the inherent risks and how the mitigation impacts on the residual risk, and whether this is being appropriately captured on the risk register. It was agreed that this would be taken back to the Directors group for consideration.
- 7.4 The Committee and Board recognised and welcomed the fact that the executive team regularly review the risk register and that it is kept as a live and dynamic document.
- 7.5 The changes to the register were outlined to the Board who noted the changes.

Assurance Framework

- 7.6 The concept and design of the assurance framework was agreed to by the Board at its meeting in July 2014. At that meeting, the Board determined that the document should be subject to at least an annual review. The Directors group undertook a review in April 2016 and this was considered by the Audit and Risk Committee when it met on 4 May 2016.
- 7.7 The version that was put before the Board has been updated to take account of the discussions held by the Directors group and the changes made to the risk register by the Audit and Risk Committee.
- 7.8 The Board were asked to consider the document, in particular the documents and evidence that provide assurance to it, and to determine the overall assurance level to be given to each risk category (Governance, Finance, Delivery, Reputation and Information & Knowledge) and indicate the adequacy of the assurance.

Governance

- 7.9 The Board felt the overall assurance level was very high and that the supporting documents provided adequate assurance.
- 7.10 The only matter that the Board were keen to have clarity on was the timetable for the recruitment of new Authority Board members. This will be noted in the document.

Action: LA

Finance

- 7.11 There was some concern regarding continued support for the accredited registers programme from the Department of Health (DH). We are awaiting a letter from DH regarding this matter.
- 7.12 It was felt that for this reason the assurance level was medium/high and there was adequate assurance. The Board asked the executive to provide the Audit and Risk Committee and Board with forecasts of the prospective accredited registers finances, and put a contingency plan in place. The Board also asked that it be added to the agenda for the Audit and Risk Committee meeting in September so that the Committee could put in place a workplan for the internal audit.

Action: HC/LA/MS

- 7.13 The Board felt that if the mitigations above are in place they would feel an adequate level of assurance.

Delivery

- 7.14 This risk category relates mostly to the work of the Scrutiny and Quality team. The two most significant considerations under this category are changes to our performance review process and changes to our section 29 jurisdiction. The Board feel they are well sighted and updated on both issues, and that these are regular/standing items at each Board meeting. For this reason the assurance level was high, and the mitigations to offset any risks are adequate.

Reputation

- 7.15 A matter regarding high staff turnover emerged last year, however it was felt that the mitigations taken by the Executive and the Board were addressing this risk, and this continues to be monitored by the Executive. It was proposed that the Executive prepare a report on the trends and look to identify benchmarks around pay packages.
- 7.16 It was agreed that the Remuneration Committee should be added to the document.
- 7.17 Overall the Board felt the level of assurance was high and the actions taken adequate.

Information and Knowledge

- 7.18 It was felt the assurance level was high and actions adequate, there were no improvement actions to add.

8. Audit and Risk Committee update

- 8.1 As mentioned above the Audit and Risk Committee most recently met on 4 May 2016, and the draft minutes from that meeting were shared with the Board. The Chair of the Committee also briefed the Board on the key areas that were discussed at the meeting.
- 8.2 The Committee received an update from the National Audit Office (NAO) on our external audit. The audit is almost complete and we are expecting a clean audit as no matters of concern have been reported so far.
- 8.3 The internal audits have now been completed by our internal auditors, Grant Thornton. The Committee reviewed four reports:
 - Consultation processes
 - Adherence to business principles
 - Follow up review of previous reports
 - Head of Internal Audit Opinion 2015/16

Consultation processes

- 8.4 It was concluded that the Authority's overall approach to consultations is consistent and we are following good practice.

Adherence to business principles

- 8.5 One area which was mentioned for possible further consideration by the Authority was more detailed time-recording information for staff carrying out consultancy work. It was however, noted that this refers to less than 4% of Authority income. Overall, the report was positive and concluded that the Authority has been adhering to its business principles.

Follow up review of previous reports

- 8.6 The report provided an update on the past two years of work. Overall, it was concluded that the Authority has been good at implementing the changes under the new financial regime.

Head of Internal Audit Opinion

- 8.7 It was noted that in the Annual Statement of Assurance Opinion (paragraph 2.2), there was nothing that had come to the attention of the auditors attention that was of concern and that the controls that were tested were suitably designed and operating effectively.
- 8.8 All the reports were positive and demonstrated that the Authority is following good practice.

9. Scrutiny Committee update

- 9.1 The Board reviewed minutes from the Scrutiny Committee meetings that took place on 4 February 2016 and 7 April 2016. The Chair of the Committee also outlined the key areas of discussion that took place at the meetings.

- 9.2 At its meeting on 8 October 2016, the Committee agreed that we should seek a review by Counsel of a sample of decisions taken not to convene case meetings and Counsel was asked to consider whether:
- The Authority is making the right decisions about whether or not to hold case meetings.
 - Whether Counsel may be able to provide any useful suggestions about how we apply the test for progressing cases for consideration at case meetings.
- 9.3 The Committee was provided with Counsel's advice. The Committee discussed the test that Counsel had proposed that could be adopted for deciding whether or not a case meeting should be held. The proposed test requires the decision-maker to consider the following three questions:
- Is it arguable that the relevant decision was unduly lenient?
 - Is it obviously not in the public interest to bring an appeal?
 - Are there any other compelling reasons to hold a case meeting?
- 9.4 The Executive have been implementing the new test and at the meeting on 7 April 2016 the Committee received an update on how the new test was working. The new test has led to a noticeable increase in the number of case meetings taking place. It was agreed that the executive should monitor how this is working in practice and whether the new approach for cost/overall effectiveness. Also we will need to consider whether cases referred to case meetings are resulting in more appeals.
- 9.5 At the meeting on 7 April 2016, the Committee discussed some key themes/issues that arose as a result of the cases considered at the meeting. One of the issues discussed relates to practitioners practising without insurance and the fact there seems to be a trend amongst some regulators of not treating lack of insurance seriously enough. The need to have indemnity insurance in place is now a legal requirement for all health professionals excluding social workers. It was agreed that this should be picked up as a theme in the performance review overview.

Terms of reference

- 9.6 The Board noted the Scrutiny Committee Terms of reference for 2016/17.

10. Performance Review update

- 10.1 We have now held assessment panel meetings for five of the nine health and care regulators; Health and Care Professions Council (HCPC), General Osteopathic Council (GOsC), General Pharmaceutical Council (GPhC), General Chiropractic Council (GCC) and the Nursing and Midwifery Council (NMC).
- 10.2 The team are following up with the regulators on some outstanding matters and will be publishing individual reports as they are completed.
- 10.3 All of the regulators have now provided us with their dataset for quarter four 2015/16. The Chief Executive of the Authority recently met with the Chief Executive of the Australian Health Practitioner Regulation Agency (AHPRA), and commented that AHPRA collect similar data, and that it might be interesting to do a comparison.

- 10.4 Analysis and evidence gathering has now commenced for the assessment panel meeting in relation to the General Dental Council. It is anticipated that this panel meeting will take place in July 2016. The assessment panel meetings in relation to the General Medical Council, the General Optical Council and the Pharmaceutical Society of Northern Ireland are provisionally scheduled to take place between September and November 2016.
- 10.5 A query was raised as to how the new process has been working. The Assistant Director of Scrutiny and Quality confirmed that so far the process has worked well, and it is felt that the new process has helped us look at only the Standards that are relevant to each regulator and is allowing the team to look at areas which may be of concern/weakness in more detail.
- 10.6 A meeting has been arranged between Authority staff and the nominated contacts at each of the regulators, to discuss the experience of the 2016 cycle of review, and share feedback and learning on the process. This meeting will take place on 29 June 2016.
- 10.7 The Board noted the good work being carried out by the team in implementing the new process, and feel that it has been open, transparent and seems to be working well.

11. Accredited Registers update

- 11.1 This month we have launched our *Lets work together* campaign. The accreditation team are promoting awareness of the programme at a primary care and public health event in Birmingham. We have a new campaign hub on our website and will be rolling out a series of communications over the next couple of months. We have had productive meetings with government colleagues and others about the establishment of new registers for two sectors of the workforce. We met with Healthwatch England's National Director and with Hospice UK to discuss areas where Accredited Registers and their wider workforce could be a helpful resource.
- 11.2 Since the Board last met we have received an application from the UK Board of Hospital Chaplaincy. Assessments for Treatments You Can Trust and Save Face, both related to cosmetic treatments, are underway. Therefore, we are currently assessing three applications for initial accreditation. Accredited registers due for renewal continue to apply on time. So far we have 100% renewal rate.
- 11.3 DH have said they will provide a subvention for this financial year and we are awaiting their formal confirmation.
- 11.4 It was also noted that Rick Borges who was Accreditation Manager has now left the Authority. The Board wanted to put on record their huge appreciation and thanks to Rick Borges for his hard work and commitment in implementing the accredited registers programme.

12. Any other business

- 12.1 There was no other business to report.

13. Questions from members of the public

13.1 There were no questions from members of the public.

14. Private session of Board

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

Approved by the Board at its meeting on 20 July 2016.