

Board meeting

Public minutes of the meeting

18 July 2018



Minutes of the Board meeting, 18 July 2018

Present

George Jenkins (Chair)
Moi Ali
Tom Frawley
Marcus Longley
Antony Townsend
Renata Drinkwater
Frances Done

In Attendance

Christine Braithwaite
John McDermott
Mark Stobbs
Graham Mockler
Daisy Blench
Marija Hume
Louise Rigg (Secretariat)

1. Welcome and Introductions & Declarations of Interest

- 1.1 The Chair welcomed everyone including observers, Jessie Roff, Corporate Business Planning Manager for Strategy and Strategic Communication and Engagement from the GMC. Silvia Dominici, Performance Reporting Manager from the NMC and Christina Docchar, Registrar of the British Association for Counselling and Psychotherapy (BACP).
- 1.2 The Chair reminded Board members they had an obligation to report declarations to himself and the secretariat, so the register could be kept updated.
- 1.3 Moi Ali reported that she was no longer a Board member of the Scottish Ambulance Service and declared a new interest as a trustee of Action against Medical Accidents (AvMA).
- 1.4 Antony Townsend, declared that from the 1 September he will be a member of the Determinations Panel of the Pensions Regulator.

Action: Board members to email the secretariat with updates to keep the register accurate.

2. Apologies

- 2.1 Harry Cayton, Chief Executive sent apologies. He was working in Vancouver.

3. Minutes of meeting held on 17 May 2018

- 3.1 Subject to correctly recording Renata Drinkwater's presence. The Board approved the minutes as an accurate record.

4. Matters arising from meeting held on 17 May 2018

- 4.1 **Action:** The Director of Scrutiny and Quality would re-circulate the link to the published Williams review.
- 4.2 The Director of Operations and Governance updated members that Board meetings for 2019 can now be booked further than six months in advance, which should address the problem of room availability for Board meetings at the NAO. The Secretariat has reserved rooms for 2019.

5. Chair's report

- 5.1 The Chair reported he had been busy with meeting Chairs of regulators and with the recruitment of the Authority's new Chief Executive. The appointment of the new Chief Executive was not yet public, but an update would be given to members in the private session of the meeting.
- 5.2 The Chair reported he had spent some time with Lee McDonough, Director General of Acute Care and Workforce at the Department of Health. He suggested an invitation to a future Board meeting to provide an oversight of workforce policy. The members were in favour.
- Action:** The Chair would invite Lee McDonough, Director General at the Department of Health to a future meeting.
- 5.3 The Chair also reported useful meetings with Lord Patel, Chair of Social Work England and Vaughan Gething AM.

6. Executive report

- 6.1 The Director of Scrutiny and Quality reported the Authority had appealed one further decision under its section 29 powers since the Executive report was written.
- 6.2 The Authority is a party to the Dr Bawaa-Garba appeal. It is taking a neutral stance and will make submissions on points of principle. The hearing is listed to take place on 25 July 2018.
- 6.3 An Appointments Seminar had taken place with representatives of all the regulators present, to discuss good practice around the process and composition of appointment panels.
- 6.4 The Director of Standards and Policy drew the Board's attention to the publication of *Regulating an occupation in less than all four UK countries: implications for policy-makers, the public and practitioners* on 28 June 2018.
- 6.5 The Authority are reviewing the progress that has been made in embedding the professional duty of candour five years on from the Francis report, which called for health professionals to be open and transparent with patients when things have gone wrong. Board members were supportive of the learning and objectives around candour and discussion was held around how the Authority could make its concerns known.
- 6.5 The Authority held the Accredited Registers Conference on 29 June at BMA House. The Conference had a public health focus, looking to build on our joint

report with the Royal Society of Public Health, *Untapped Resources* published in November 2017.

- 6.6 The Director of Governance and Operations reminded Board members that the Business Continuity Plan (BCP) test was due to take place on Friday 20 July.
- 6.7 It was reported that good progress was being made on the directorate's service plans and that a draft fee consultation and business plan will be submitted to the Board at the September meeting.
- 6.8 A Board member sought assurance that recruitment was in hand to replace staff when they left. The Director of Governance and Operations and the Director of Scrutiny and Quality gave assurance that, as was usual, a recruitment and training plan was in place and there was sufficient budget should temporary staff be required in the interim.

7. Finance report format

- 7.1 The Director of Governance and Operations introduced the new finance paper format. The Board agreed that the report was easier and clearer to read and welcomed the inclusion of more official forecasting for commissioned work. The Chair thanked the Chair of the Audit and Risk Committee for her involvement in the production of the new finance report.
- 7.2 The Head of Finance explained that the revised format matches the fee consultation and business plan. It also gives more detail on the individual lines and starting from month three of the financial year, more explicit forecasting and financial reporting will commence for workstreams three (Commissions from Governments(s)) and four (Advice to other organisations).
- 7.3 The Head of Finance stated the figures showed a small underspend at month two.
- 7.4 The Chair of the Audit and Risk Committee said that although we were now accounting more clearly for workstreams three and four, and that through the new format of the finance report, the financial details will be more accessible to the Board, it would also be useful to have a list of the various pieces of work and their status detailed for members. While the Chair noted it would be useful to see, he proposed waiting for the new Chief Executive to take up their post before making a final decision about the approval process.

Action: The Chair would discuss with the new Chief Executive the process for approval and reporting of commissioned work.

8. Audit Committee annual report to Board

- 8.1 The Director of Governance and Operations introduced the report.
- 8.2 The Chair of the Audit and Risk Committee highlighted that the report details the main areas of activity for the committee during the previous year and gives assurance there are no areas of concern.
- 8.3 The Board were content with the annual report from the Audit & Risk Committee.

9. Unapproved minutes of the Audit and Risk Committee meeting, June 2018

- 9.1 The Chair of the Audit and Risk Committee raised a point from an outcome of NAO audit, specifically in relation to the single small special payment made by the Authority. Although this had been properly recorded, the committee discussed whether non-contractual payments should be subject to a specific limit, consultation with the Chair, or delegation to the Remuneration Committee. The Chair proposed that the issue be picked up by Remuneration Committee after the private session of the Board meeting. The Board were content with this approach.
- 9.2 The Chair and the Board wished to thank the Governance and Operations directorate and note their hard work which went into the year-end period, resulting in the Annual Report and Accounts.
- 9.3 The Chair observed that the approach of colleagues at the NAO to this year's external audit had not felt as proportionate nor as collaborative as in previous years.

10. Unapproved minutes of the Scrutiny Committee meeting, June 2018

- 10.1 The Chair of the Scrutiny Committee drew attention to several points from the paper.
- 10.2 The Scrutiny Committee had agreed to review the oversight of appointments to the regulators' Council at the October meeting to ensure the guidance from the Authority was clear and concise. The Committee considered it essential that any panel should include at least one individual who is not a health care professional.
- 10.3 The Committee had approved the Authority's revised process for reviewing regulators' fitness to practise cases under its section 29 powers. While case numbers appear to be falling, it was still important to ensure that resources are used most effectively. The Committee were content that the team need no longer look at voluntary erasure decisions, or review hearings where the decision is to continue a suspension or to impose a suspension following a conditions order and to change the second check process so that 10% of review hearings are checked but 20% of first hearings are checked.
- 10.4 A Board member having recently observed an Accredited register's annual renewal moderator meeting, assured the Board that the process was thorough and robust.

11. Annual Report and Accounts 2017/18

- 11.1 The Director of Governance and Operations introduced the report.
- 11.2 The Board formally noted the final version of the report.

12. Update on Accredited Registers

- 12.1 The Head of Accreditation presented the papers and reported eight registers have been reaccredited using the new annual review process, one of which

went to a targeted review. One other register is currently undergoing a targeted review.

- 12.2 The Board discussed the Authority's approach to efficacy in relation to therapies used by practitioners on accredited registers. It was noted that the Authority does not have a legislative remit to determine the efficacy of the treatments and therapies covered by the registers that apply for accreditation.
- 12.3 The Board discussed the public's understanding and awareness of the programme, including the meaning of accreditation. The Chair suggested a review of the work undertaken to determine the public perception of the programme and further discussion of the issue of efficacy should take place at the January 2019 Board meeting.

Action: The Head of Accreditation would present a paper at the January Board meeting.

13. Update on the establishment of Social Work England

- 13.1 The Director of Standards and Policy introduced the paper updating on the development of Social Work England (SWE), the new regulator for social workers in England. The Board was informed that the regulations had now passed through both houses of Parliament meaning that SWE will now be able to develop its rules. Ministers had also written to the Authority's Board members to provide assurance that the Authority will receive sufficient funding to cover its oversight of SWE.
- 13.2 The Board welcomed the update and asked to receive further updates on the development of the new organisation. It was noted that oversight of Social Work England might require the Authority to review the stakeholders we engage with in the social work sector.
- 13.3 The Board welcomed the commitment from Government to ensure that the Authority will be able to scrutinise cases disposed of consensually but noted that this would require amendment to the Authority's legislation and if this was not in place at the start of SWE operation of its FtP function then this would be a risk to Government as SWE will be accountable to the Secretary of State for Education.
- 13.4 There was discussion about the importance of SWE maintaining a clear focus on public protection rather than straying into professional development, representation or improvement. A Board member noted that whilst the view has been taken in England that this is not the role of the regulator, the Devolved Governments have taken a different view and the devolved social care regulators fulfil both improvement and regulatory functions. The Director of Standards and Policy explained the Authority's policy position that regulators are responsible for ensuring compliance with the standard required for registration. Quality improvement may be a consequence of professional regulation but it is not its purpose.
- 13.5 The Board noted the inquiry by a joint Parliamentary Committee scrutinising the draft Health Service Safety Investigations Bill proposing 'safe space' investigation powers for the Health Service Safety Investigations Body (currently the Healthcare Safety Investigations Branch) and to give HSSIB powers to accredit trusts to carry out 'safe space' investigations where things had gone wrong. 'Safe space' would mean that HSSIB or trusts would have

secret investigations and be unable to disclose information received as part of an investigation to regulators or the authorities unless it met specific criteria or by order of the Court.

- 13.6 The Authority had submitted written evidence to the inquiry and the Chief Executive had given oral evidence in front of the Committee. Several Board members raised concerns about the conflict between 'safe space' powers and the duty of candour as patients and their families might not have access to information disclosed within an investigation. The Committee is due to report on 1 August. The Board enquired about a press statement highlighting our concerns ahead of the committee reporting but were content to leave the action to take with the Director of Standards and Policy.

14. Any other business

- 14.1 The Chair notified the Board members that the secretariat would circulate 2019 Board and Committee dates in the next month once these had been agreed by the Board and the Committees.

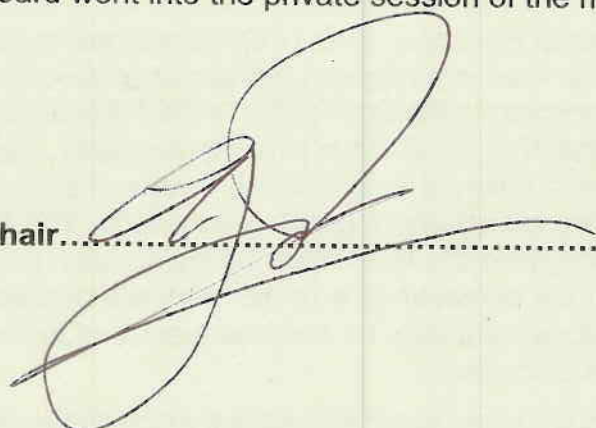
15. Questions from observers

- 15.1 Christina Docchar enquired whether there was an update from the Department of Health consultation on what the Authority's role might be in the future. The Director of Standards and Policy confirmed publication of the Government response would likely take place after recess.
- 15.2 Jessie Roff asked if there was any feedback that could be given yet, regarding questionnaires sent out regarding duty of candour and if regulators are doing enough in this area. The Director of Standards and Policy confirmed that the report is likely to show that panels are not currently thinking about candour and that some significant work needs to be done in this area.

16. Private session of the Board

The Board went into the private session of the meeting

Signed by Chair.....



Date 19 Sept 2018