

**MINUTES OF A MEETING OF THE MONITOR BOARD HELD ON THURSDAY 28  
MAY 2015 AT 10.30 AT WELLINGTON HOUSE, 133-155 WATERLOO ROAD,  
LONDON SE1 8UG**

**Present:**

David Bennett, Chief Executive  
Stephen Hay, Managing Director of Provider Regulation  
Timothy Heymann, Non Executive Director  
Heather Lawrence, Non Executive Director  
Adrian Masters, Managing Director of Sector Development  
Iain Osborne, Non Executive Director  
Keith Palmer, Deputy Chairman, Non Executive Director (in the Chair)  
Sigurd Reinton, Non Executive Director

**In attendance:**

Helen Buckingham, Chief of Staff (until item 16)  
Miranda Carter, Executive Director of Provider Appraisal (until item 16)  
Catherine Davies, Executive Director of Co-operation and Competition (until item 16)  
Jason Dorsett, Finance, Reporting and Risk Director (until item 16)  
Philippa Harding, Board Secretary  
Fiona Knight, Executive Director of Organisational Transformation (until item 16)  
Toby Lambert, Director of Pricing (until item 16)  
Catherine MacDonald, Project Director (Policy) (until item 16)  
Jeremy Mooney, Executive Director of Strategic Communications (until item 16)  
Kate Moore, Executive Director of Legal Services (until item 16)  
Adam Sewell-Jones, Executive Director of Provider Sustainability (until item 16)  
Peter Sinden, Chief Information Officer (until item 16)  
Chris Walters, Chief Economist (until item 16)

No members of the public were in attendance for the public session of the meeting.

Executive officers attended the meeting as detailed under specific agenda items below.

**1. Welcome and apologies**

1.1 Apologies for absence had been received from Joan Hanham (Chairman) and Hugo Mascie-Taylor, Medical Director (Executive Director of Patient and Clinical Engagement).

## **2. Declarations of interest**

2.1 No interests were declared.

## **3. Minutes and matters arising from the meeting held on Wednesday 29 April 2015 (BM/15/51)**

3.1 The minutes of the Board meeting held on 29 April 2015 were approved and the matters arising noted.

## **4. Performance of the NHS Foundation Trust sector Q4 2014/15 (BM/15/52)**

Yin Shi (Head of Sector Reporting) was in attendance for the consideration of this item.

4.1 Jason Dorsett introduced the report which set out the findings from a review of the Q4 2014/15 performance of the 151 licensed NHS foundation trusts (NHSFTs) operating during that period. Between April 2014 and March 2015 NHSFTs treated 10.7 million emergency in-patients, an increase on the previous year of 574,000. In addition, there was also a significant increase in non-emergency patients. However, it was noted that this increase in demand for care, combined with an over-reliance on expensive agency staff and the need to make cost savings, was putting trusts under sustained and exceptional pressure. The NHSFT sector overall had failed to meet a number of national waiting times targets for accident and emergency (A&E), elective care and some cancer treatments throughout the year. The sector also ended 2014/15 in deficit (£349 million) for the first time, in a further sign of the increased pressures upon services.

4.2 Consideration was given to the question of how NHSFTs' actual activity compared to planned activity at the beginning of 2014/15. It was noted that there was a variance between the accuracy of planning with regard to elective and A&E activity. In both areas, however, NHSFTs' activity was growing. Board members also discussed the changes to NHSFTs' headcount numbers in light of these growing levels of activity. It was reported that, whilst Monitor had not tracked headcount data in 2014/15, this information would be gathered in 2015/16.

4.3 It was noted that, with regard to the operating expenses incurred by NHSFTs, pay for employees was slightly below plan, as was expenditure on drugs. Further work would be undertaken to better understand these levels of expenditure in 2015/16.

## **5. Memorandum of Understanding with the Health and Social Care Information Centre (BM/15/54)**

5.1 Peter Sinden introduced the report which presented the Board with the proposed Memorandum of Understanding (MoU) to clarify the principles and governance underpinning the relationship between Monitor and the Health and Social Care Information Centre. It was noted that the draft agreement had been reviewed and revised by the Technology Assurance Committee and by the Executive Committee.

### **RESOLVED:**

5.2 The Board resolved to approve the proposed MoU between Monitor and the Health and Social Care Information Centre.

## **6. Pricing Update (BM/15/54)**

6.1 The Board discussed the report which provided an update on the key issues being addressed by the Pricing team in the past month.

6.2 It was noted that the Pricing team continued to work with NHS England to agree the scope of the 2016/17 National Tariff. Monitor's position with regard to the 2015/16 National Tariff was discussed. Board members requested a paper on this for consideration at the Board meeting on 24 June 2015.

**ACTION: TL**

6.3 Board members discussed the submissions that had been received by Monitor with regard to Local Modifications in 2014/15. Consideration was given to a particular ongoing Local Modification application.

## **7. Executive Report (BM/15/55)**

7.1 Board members considered the report which summarised key developments at Monitor since the Board meeting held on 29 April 2015.

7.2 An update was provided with regard to Monitor's work on the financial impact of moving care out of hospital. It was noted that this project was due to be completed by the beginning of July 2015.

7.3 Board members discussed the anticipated findings of the project on the drivers of the decline in accident and emergency performance over 2014/15. This project was due to be completed by the end of June 2015. It was proposed that the findings of the project might constitute a Board workshop in due course.

7.4 The Board noted the progress that had been made with regard to the implementation of the Five Year Forward View.

## **8. Report of the Technology Assurance Committee meeting on 14 May 2015 (BM/15/56)**

- 8.1 Sigurd Reinton introduced the report which provided the Board with information about the meeting of the Technology Assurance Committee on 14 May 2015.
- 8.2 The Board noted the report and that a session between the Board and the Health and Social Care Information Centre was being organised to take place in June.

## **9. Report of the Audit and Risk Committee meeting on 21 May 2015 (ExCo/15/57)**

- 9.1 Keith Palmer introduced the paper which provided the Board with information about the meeting of the Audit and Risk Committee meeting on 21 May 2015.
- 9.2 The Board noted the report.

## **10. Questions and comments from the public (oral item)**

- 10.1 No members of the public were present.

## **11. Private session - resolution (oral item)**

- 11.1 The Chair moved a resolution in order to move into private session to consider private items of business.

### **RESOLVED:**

- 11.2 The Board resolved that representatives of the press and other members of the public should be excluded from the meeting, having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest.

## **12. Co-operation and Competition Update (BM/15/58(P))**

- 12.1 Board members considered the report which provided information about significant developments with regard to the work of the Co-operation and Competition directorate since the meeting of the Board on 29 April 2015.
- 12.2 It was noted that Monitor intended to publish the outputs of its research project on GP services on 1 June 2015.
- 12.3 An oral update was provided with regard to Monitor's investigation of the commissioning of community services by NHS Northern, Eastern and Western Devon Clinical Commissioning Group. The case team's analysis was well

advanced as was its work on drafting provisional findings and these were expected to be published at the beginning of June 2015.

### **13. Provider Regulation Update (BM/15/59(P))**

- 13.1 Stephen Hay presented the report which provided a summary of the NHSFTs subject to enforcement action at 6 May 2015.
- 13.2 An oral update was provided with regard to the work that had been undertaken to date to understand the deterioration of St George's University Hospitals NHS Foundation Trust's financial position following authorisation on 1 February 2015.
- 13.3 It was noted that Monitor was in the process of reviewing NHSFTs' operational plans and the current planning process. The outcome of this review was due to be provided to the Board for consideration at its meeting on 24 June 2015.

### **14. Q4 Risk and performance Report:**

Das Mootanah (Risk and Performance Director) was in attendance for the consideration of this item.

#### **(i) Q4 Risk Report (BM/15/61(i)(P))**

- 14.1 The Board noted the report which provided an update on Monitor's strategic risk profile as at the end of Q4 2015/16. It also provided an update on current risk management highlights and forthcoming priorities.

#### **(ii) Q4 Performance Report (BM/15/61(ii)(P))**

- 14.2 Board members noted the report which provided information about the status of the 2014/15 Business Plan actions, key performance indicators and key achievements.

### **15. Monitor's 2014/15 Annual Report and Accounts (BM/15/62(P))**

Victor Smart (Editorial Director) joined the meeting for the consideration of this item.

- 15.1 The Board considered the paper which provided a draft of the annual report and annual governance statement for comment and approval.
- 15.2 In considering the annual governance statement, Board members were content with its draft content. It was proposed that clarity between Board members and attendees with regard to Board meetings would be helpful.

- 15.3 On the drafting of the Chief Executive's review of the year, Board members emphasised the importance of positivity and the benefits that flowed from increased patient choice.
- 15.4 Subject to these comments, the Board confirmed that it was content with the tone, approach and overall content of the draft annual report and annual governance statement.

## **16. Monitor's Regulatory Approach (BM/15/60(P))**

- 16.1 David Bennett introduced the report which proposed making a number of changes to the manner in which Monitor regulated NHSFTs, in order to highlight improvement opportunities and provide as much support as possible to help NHSFTs realise those opportunities.
- 16.2 Board members considered the proposed approach to increasing Monitor's scrutiny of NHSFTs' financial performance in order to enable action to be taken sooner in relation to providers that were not providing value for money for their patients. The Board noted the importance of NHSFTs playing their part in addressing the efficiency challenge set out by the Secretary of State for Health to make substantial savings to NHS budgets in 2015/16. It was proposed that Monitor should consult on revisions to the Risk Assessment Framework (RAF) that would introduce more specific criteria for testing whether an NHSFT board was applying the standards of good corporate governance to ensure that the trust was making best possible use of its resources. It was noted that these triggers were similar to those which had previously been used in Monitor's compliance framework, in order to allow Monitor to intervene where there was uneconomical or inefficient use of resources, rather than just a short term risk to insolvency and continuity of services as at the current time.
- 16.3 In light of the scale of the operational and financial challenge facing the NHS, Board members noted the importance of providing NHSFTs with practical support and help to reduce the risk that they met financial difficulty, or that Monitor would have to intervene formally. The Board confirmed that it was content with the principle of the proposed changes and that these should be consulted upon. A final decision on the implementation of the proposed approach would be taken in light of the sector's responses to the consultation. In considering the proposed changes to Monitor's regulatory approach, Board members highlighted a number of risks that required mitigation. These would be addressed alongside the responses to the consultation.

## **17. Chief Executive's Update (oral item)**

- 17.1 David Bennett provided the Board with an update on his recent discussions with the Secretary of State for Health and the Permanent Secretary at the Department of Health.

## **18. Any other business**

18.1 No other business was raised.

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