

**DRAFT MINUTES OF A MEETING OF THE MONITOR BOARD HELD ON
WEDNESDAY 29 JULY 2015 AT 10.00 AT WELLINGTON HOUSE, 133-155
WATERLOO ROAD, LONDON SE1 8UG – SUBJECT TO APPROVAL AT THE
MEETING OF THE BOARD ON 30 SEPTEMBER 2015**

Present:

David Bennett, Chief Executive
Stephen Hay, Managing Director of Provider Regulation
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 (by telephone until item 11)

In attendance:

Helen Buckingham, Chief of Staff (from item 4)
Miranda Carter, Executive Director of Provider Appraisal
Catherine Davies, Executive Director of Co-operation and Competition
Jason Dorsett, Finance, Reporting and Risk Director
Philippa Harding, Director of Operations and Performance
Fiona Knight, Executive Director of Organisational Transformation
Toby Lambert, Director of Pricing
Hugo Mascie-Taylor, Medical Director (Executive Director of Patient and Clinical Engagement)
Jeremy Mooney, Executive Director of Strategic Communications
Kate Moore, Executive Director of Legal Services
Peter Sinden, Chief Information Officer
Ed Smith, Chair Designate (until item 11)
Georgia Toutziari, Governance Manager
Chris Walters, Chief Economist

A member of the public was 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), Timothy Heymann (Non Executive Director) and Adam Sewell-Jones (Executive Director of Provider Sustainability).

1.2 The Chairman welcomed Ed Smith. It was noted that his appointment as Chair of Monitor would be effective from 1 August 2015.

2. Declarations of interest

2.1 No interests were declared.

3. Minutes and matters arising from the meeting held on Wednesday 24 June 2015 (BM/15/71)

3.1 The minutes of the Board meeting held on 24 June 2015 were approved and the matters arising noted.

4. Provider Appraisal Update (BM/15/72)

4.1 The Board noted the report which provided information about significant developments with regard to the work being undertaken by Monitor's Provider Appraisal directorate since the last meeting of the Board.

4.2 Board members discussed joint work that had been undertaken by Monitor and national stakeholders with regard to Vanguard transactions. The aim of the work was to maximise the success of these transactions and manage any associated risks with them. Particular consideration was given to the nature of risk involved in relation to the governance arrangements that might be established as a result of joint ventures. The value of Monitor's early engagement approach in minimising disruption to timetables for the delivery of the work was noted.

4.3 In light of the scale of the operational and financial challenge facing the NHS, a number of comments were provided with regard to the direction of travel for the authorisation process. Board members noted the value of considering ways in which development and assessment of trusts could be streamlined and of a focussed approach to help drive improvements opportunities at non-NHS foundation trusts (NHFTs). The importance of the authorisation process driving improvement in trusts was emphasised.

5. Pricing Update (BM/15/73)

Igor Popovic (Pricing Delivery Director) was in attendance for the consideration of this item.

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

5.2 Board members noted that, rather than publishing a single 'Tariff Engagement Document', a series of consultation documents on a number of proposals for the

2016/17 National Tariff would be published. It was anticipated that the first of these would be published toward the end of the summer.

5.3 Two of the four planned local payment examples had been published in July 2015. It was noted that the Pricing team was working to finalise and publish the other two.

5.4 Monitor had approved a Local Modification for a defined set of services submitted by University Hospitals of Morecombe Bay NHS Foundation Trust. Consideration was given to the question of whether this set a precedent and the potential financial impact on the sector of approving such arrangements in the future.

6. Report of the Audit and Risk Committee meeting on 1 July 2015 (BM/15/75)

6.1 Keith Palmer introduced the paper which provided the Board with information about the meeting of the Audit and Risk Committee meeting on 1 July 2015.

6.2 The Board noted the report.

7. Co-operation and Competition Update (BM/15/76(P))

7.1 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 24 June 2015.

7.2 It was noted that Monitor had opened a formal investigation into a complaint from Care UK about elective care services in North East London. The timescales for the publication of the case team's work on the findings of the investigation were considered.

7.3 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 work on the findings of the investigation was expected to be published by the end of July 2015.

7.4 Board members noted the work of Competition and Markets Authority (CMA) investigation in relation to the proposed merger of Ashford and St Peter's Hospital NHS Foundation Trust. The importance of taking timely decision making in CMA work was noted.

8. Provider Regulation Update (BM/15/77(P))

Kate Holden (Senior Regional Manager) and Mark Turner (Regional Director) were in attendance for the consideration of this item.

- 8.1 Stephen Hay presented the report which provided a summary of the NHSFTs subject to enforcement action at 6 July 2015. A further oral update was provided with regard to the following NHSFTs:
- St George's University Hospitals NHS Foundation Trust; and
 - Cambridge University Hospitals NHS Foundation Trust.

9. Questions and comments from the public (oral item)

- 9.1 No members of the public were present.

10. Executive Report (BM/15/74)

- 10.1 Board members considered the report which summarised key developments at Monitor since the Board meeting held on 24 June 2015.
- 10.2 An update was provided with regard to Monitor's work that was intended to help trusts identify efficiency opportunities and make cost savings, especially in light of the increase in demand for care, combined with an over-reliance on expensive agency staff.
- 10.3 The Board noted the progress that had been made with regard to the implementation of the Five Year Forward View (5YFV). The Policy team had begun work to support the development of tools to implement agency price and volume caps at providers. The Policy team was also working with NHS England to assess the likely financial contribution of 5YFV transformation programmes. Consideration was given to the different scenarios for the potential implementation of agency controls. Board members requested that an engagement document, used internally to test policy development, be circulated in correspondence to provide further clarity in relation agency staffing. An update was requested by the Board for consideration at its September meeting.
- ACTION: JD**
- 10.4 Board members noted the progress that had been made with regard to the work in relation to leadership and improvement development in the sector.
- 10.5 The Board discussed the proposal that the appointment of Dr Hugo Mascie-Taylor as Responsible Officer for Monitor be approved. It was anticipated that Dr Hugo Mascie-Taylor would work with his team, in particular with the Deputy Medical Director, Dr Stanley Silverman, to set-up the necessary processes and procedures to revalidate doctors at Monitor.

RESOLVED:

- 10.6 The Board resolved to approve the appointment of Dr Hugo Mascie-Taylor as Responsible Officer for Monitor

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. Risk Assessment Framework (BM/15/78(P))

Catherine McDonald (Policy Project Director) and Nicola Meheran (Senior Policy Adviser) were in attendance for the consideration of this item.

12.1 Board members considered the report which summarised the issues identified in the response to Monitor's consultation on its proposed in year amendments to the Risk Assessment Framework (RAF) and the implications of these. The RAF sets out how Monitor would assess both risk to Continuity of Services (CoS) at providers of Commissioner Requested Services and governance risk at NHSFTs.

12.2 Board members were content with the proposed changes to strengthen the monitoring arrangements over the financial provisions in licence condition FT4 and adding new metrics to encourage sound financial governance and value for money, within the existing framework. A number of comments were provided in relation to how the changes could be effectively implemented which included consideration of the new value for money metric.

RESOLVED:

12.3 The Board resolved that the changes to the RAF proposed in light of the consultation responses received should be adopted.

13. Setting up the Sustainability Analytics and Solution Development team (BM/15/79 (P))

13.1 David Bennett introduced the report which presented the Board with information about the additional spend required of Monitor in order to support the implementation of the Sustainability Analytics and Solutions Development team (SASDT), a key component of Provider Sustainability directorate. Whilst the Board had approved the indicative budget set out in the proposals for the establishment of Provider Sustainability directorate in early 2015, following more detailed discussions about the work programme expected to be undertaken by the team and internal costing, an additional allocation of £2.2m of the 2015/16

contingency planning team budget was required to allow the SASDT to recruit to its full complement of staff.

- 13.2 Board members highlighted the value of the proposed work as well as the need for SASDT to deliver pragmatic solution developments for the wider sector. A number of comments were provided in relation to the skills required for the work programme and its required resources. The importance on working closely with NHS Trust Development Authority in order to share expertise, knowledge and skills in relation to this work was noted. An update was requested by the Board for consideration at its September meeting.

RESOLVED:

- 13.3 The Board resolved that, subject to the comments made at the meeting, the proposals as set out in the report be approved.

14. Drivers of the accident and emergency performance challenges in 2014/15 (BM/15/80 (P))

Amy Caldwell-Nichols (Director of Economics) and Emma Mead (Economic Analyst) and Edward Kendall (Economic Analyst) were in attendance for consideration of this item.

- 14.1 Board members welcomed the report which set out the findings of the review of the national decline in accident and emergency (A&E) performance against the four hour target in Q3 2014/15 and recommended next steps.
- 14.2 Board members discussed the key findings and noted the team's proposal that national efforts in the short-term should be focused on improving patient flow through hospitals to increase capacity, rather than on A&E itself or demand management for A&E services not resulting in admission. Consideration was given to the impact of social and community care on A&E performance. Board members noted that work was underway with Monitor's system partners and other relevant organisations to bring this work under one central lead.

15. Any other business

- 15.1 Noting that she was moving on from her role as Board Secretary, the Chairman thanked Philippa Harding for her services to the Board during her time in the role.

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