

From the Ombudsman **Robert Behrens CBE** and the  
Chief Executive Officer **Amanda Campbell CBE**



Sir Bernard Jenkin MP  
Public Administration and Constitutional Affairs Committee  
House of Commons  
London  
SW1A 0AA

05 February 2019

Dear Sir Bernard,

We would like to address some points that were raised during our annual scrutiny hearing on Tuesday 22 January.

### Board minutes

A member of the committee, Rupa Huq, noted that our board minutes had not been published since May. This was an oversight and we are grateful to the Committee for bringing this to our attention. We can assure you that all board minutes have now been published and we will continue to publish them routinely. We have annexed the most recently published minutes to this letter.

### Eating Disorders Insight report

During the scrutiny hearing we touched upon the tangible impact that our insight reports have had on improvements within the NHS. Following on from this we wanted to highlight the specific impact our report [Ignoring the Alarms: How eating disorder services are failing patients](#), which was published in December 2017, has had to date.

The appended letter from the Minister for Mental Health, Inequalities and Suicide Prevention outlines the action the government are taking as a result of our report:

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- NHS England Mental Health Director Claire Murdoch has committed to commissioning NHS Benchmarking to review the provision, investment and workforce capacity for delivering eating disorder care for adults, as well as setting up a working group with all the Arms-length Bodies identified in the report to oversee and implement the report's recommendations. The group is chaired by Professor Tim Kendall, National Clinical Director for Mental Health and will inform the long term plan for NHS England.
- The National Institute for Health and Care Excellence (NICE) who give guidance, advice and information services for health and social care professionals accepted our recommendations around coordination of care and access to treatment on eating disorders. They updated their quality standard to include the coordination of care in relation to eating disorders.
- NHS Improvement has separately consulted on a review of the serious incident framework, which aims to clarify responsibilities in local investigations and improve processes for the investigation of complex incidents involving multiple providers.

I know that Claire Murdoch or her team would be more than happy to answer any further questions you or members of the Committee may have around this.

### State pension age change cases

Rupa Huq, also raised some questions on our approach to the complaints we have received in relation to the communication of the state pension age changes. We address these below.

### *Why we proposed to investigate six complaints*

To date we have received a large number of complaints in relation to the communication of the state pension age changes. In order to progress the complaints in the most proportionate and timely way, a decision was taken to select a reflective sample of six complaints that broadly covered the issues that were being complained about. This is an established method of systemic investigation used by Ombudsmen and that we have also used in the past, from our first significant report on the Sachsenhausen case through to more recent reports such as our [\*Equitable life: a decade of regulatory failure\*](#) report.

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The alleged maladministration in the sample we selected included:

- No notice of the 1995 changes
- No notice of 2011 changes
- Late notice of changes (1995 and 2011)
- Incorrect information supplied by HMRC
- Incorrect information about SPA quoted on the government's Gateway website
- Inaccurate information supplied by DWP (in pension forecast)
- Inadequate complaint handling by ICE

We had issued a proposal to investigate these complaints, but have now paused them in light of the judicial review that was subsequently granted by the High Court in relation to the state pension age change. We explain this in further detail below.

#### *Why we chose not to investigate*

The High Court made a decision to grant permission for a judicial review of the means by which the government implemented changes to the state pension age change, including how these changes were communicated. Given the significant overlap between the issues we are proposing to investigate and the issues the High Court will consider, we decided to wait for the court proceedings to conclude before deciding whether we can and should investigate. It would not be practical or proportionate for us to investigate these issues separately from the litigation. Waiting for the court process to conclude will allow us to take such evidence into account if we do decide to investigate.

Please see our [website](#) for further information on this.

If you or a member of the Committee would like to discuss any of these issues further, we would be more than happy to meet and discuss them as needed.

Yours sincerely,

*Rob Behrens*

*Amanda Campbell*

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## **Annex A - Board Minutes for Parliamentary and Health Service Ombudsman, 21 June; 6 July; 27 September**

### **PHSO BOARD OPEN SESSION MEETING**

**21 June 2018**

**Minutes (Approved)**

**21 June 2018**

**CHAIR:**

Rob Behrens CBE, Ombudsman

**NON-EXECUTIVES**

Sir Alex Allan KCB

Elisabeth Davies

Dean Fathers

Ram Gidoomal CBE

Alan Graham MBE

Mick King

Ruth Sawtell

Dr Julia Tabreham

**EXECUTIVES**

Amanda Campbell, Chief Executive

Gill Kilpatrick, Executive Director of Finance and Corporate Services (item 5)

Alex Robertson, Executive Director of External Affairs and Insight

**IN ATTENDANCE**

Karl Banister, Director of Legal and Governance

Andrew Dawson, Governance Officer (minutes)

James Hand, Head of Business Planning and Performance (Items 14 -16)

Abigail Howarth, Director of Operations and Quality

Steve James, Director of Human Resources (Items 5)

Richard Muirhead, Director of Finance (Items 14 & 20)

Stuart Ogden, Head of ICT and Accommodation (Item 17)

Martyn Schofield, Head of Governance

Warren Seddon, Director of Insight and Public Affairs

Paula Woodward, Chief of Staff

**OBSERVERS:**

Brad Denton, Performance Officer

David Guy, Performance Analyst

**8. Chair's Introduction and Welcome**

8.1 The Chair welcomed members, observers and others present to the meeting.

**9. Declarations of Interest**

9.1 There were no declarations of interest related to any matters on the agenda.

## **10. Minutes and matters arising**

10.1 The Board approved the minutes of the meeting held on 22 March 2018 subject to minor amendments.

10.2 The Board agreed that the Matters Arising from 22 March 2018 (Items 12.5 and 17.9) were now closed.

## **11. Chief Executive's report to the Board**

11.1 The Chief Executive's report had been circulated to the Board. The report was **noted**.

11.2 Amanda Campbell said that, on casework, we had delivered exactly what we said we would and had finished the year on trajectory. However since then we had started to track behind, and were currently 378 cases behind where we had expected to be. This was due to:

- Delays caused by the *Miller & Howarth* judgment;
- Delays in recruitment and the impact of having large numbers of new staff;
- The impact of maternity leave had been omitted from our modelling. We have now recruited against this.

Amanda Campbell said that mitigations were now in place we expected to be back on track by October.

11.3 Elisabeth Davis asked whether we were confident that the casework allocation model was accurate and free of optimism bias. Amanda Campbell said that models were iterative and that we were reasonably confident about the current model. Alex Robertson added that the Director of Operations and Quality had recently carried out a full review of the model.

11.4 Ruth Sawtell said she was assured that we believe the model is robust. She asked how confident we were that we would be back on track by the autumn. Amanda Campbell said that it was challenging, but that momentum was there and we will build on that.

11.5 Amanda Campbell said that the March Pulse Survey highlighted some concerns about bullying, discrimination and harassment. We have therefore commissioned follow-up work from an Equality, Diversity and Inclusion (ED&I) specialist to produce an insight report based on all available data. Amanda Campbell noted that staff have been overwhelmingly positive about how the organisation is changing.

11.6 Alan Graham asked if there was anything to suggest that staff were going outside of the organisation for whistleblowing purposes. Amanda Campbell said that the only example was the trade union side writing to the Public Administration and Constitutional Affairs Committee. We had responded to

PACAC as some of the points made by the trade union side were incorrect or misleading.

- 11.7 Alex Allan said that he remained concerned about the pulse survey. Amanda Campbell undertook to share the ED&I insight report to the Board once it had been reviewed by the senior leadership team. The report made a number of recommendations to be taken forward. She said that one of the report's conclusions was that our ED&I position is better than we believe it is, and that we are ahead of most of the public sector.

**Action: ED&I Insight report to be circulated to the Board**

- 11.8 Dean Fathers asked if we had sought advice from the Royal National Institute for the Blind over the accessibility of ICT to visually impaired staff. Amanda Campbell confirmed that we had not done so.

- 11.9 Dean Fathers asked whether our casework modelling took into account the likely impacts, short and long term, of the World Cup on staffing levels. Amanda Campbell confirmed that this had been included in our modelling.

- 11.10 Alex Allan asked if the revised Senior Structure could be circulated to the Board once it was finalised. Amanda Campbell agreed to do so.

**Action: Finalised Senior Staff Structure to be circulated to the Board.**

- 11.11 The Board noted the Chief Executive's report.

**Elisabeth Davies took the Chair**

**12. Ombudsman's report to the Board**

- 12.1 A report by Rob Behrens had been distributed.

- 12.2 Elisabeth Davies congratulated Rob Behrens on his election to the Board of the Ombudsman Association.

- 12.3 The Board noted the Ombudsman's report.

- 12.4 Elisabeth Davies invited Rob Behrens to update the Board on progress on a Public Sector Ombudsman (PSO) bill. Rob Behrens said that, together with Mick King (in his role as Local Government and Social Care Ombudsman) he had recently met with the new Cabinet Office Minister of State, who had been responsive to their views. However it did not seem likely that legislative progress was likely in the next few months.

- 12.5 Rob Behrens said that, through the Ombudsman Association, he had raised concerns that academics had not used their unique position to comment on a possible PSO Bill. In response, a group of academics had agreed to set up a project to explore this further, and were holding a conference in January to discuss what a PSO Bill could contain.

12.6 Mick King said that in his view the PSO Bill remained parked but was not dead. He said that this year, LGSCO were required to make a submission to the Secretary of State about the fitness of their legislation. The submission will focus on the need for a PSO Bill.

**Rob Behrens resumed the Chair**

### **13. Operational Performance Report - End of Year Report 2017-18**

13.1 A report by James Hand, Head of Business Performance and Planning, and Warren Seddon, Director of Public Affairs and Insight, had been distributed. Abigail Howarth, Director of Operations and Quality, presented the report to the Board.

13.2 Abigail Howarth said that, further to the comments of the Chief Executive (paras 11.2 - 11.4), she had worked through the assumptions in our models in great detail with her assistant directors, managers and staff. It would be challenging to return to the trajectory, but she had used the review as an opportunity to ensure that staff and managers own the plan. She believed that we could now have much greater confidence in the forecasting.

13.3 Ram Gidoomal asked what key assumptions had been used in our model. Abigail Howarth said that these were about productivity, the impact of new staff, and the impact of new processes. She said that we had identified what we mean by low, medium and high performance and had identified what needed to be done to improve performance. Performance was now being tracked on a weekly basis in respect of all key assumptions.

13.4 Julia Tabreham asked whether the impact of external developments such as the WASPI<sup>1</sup> campaign and the Gosport Hospital report had been factored in. Abigail Howarth confirmed that this had been the case in respect of the WASPI campaign, and that managers were aware that where such extra demands arise, they need to escalate any concerns they may have about resourcing.

13.5 Mick King asked whether the review of assumptions had caused us to look again at the Target Operating Model (TOM). Abigail Howarth said that it was too early to say whether changes in TOM would be necessary.

13.6 Elisabeth Davies asked whether the casework output model could be used to forecast improvements in Service Charter data. Abigail Howarth confirmed that there was no direct correlation between output forecasting and quality measures, but that she expected improvements in output to eventually flow through into Service Charter data.

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<sup>1</sup> Women Against State Pension Inequality



### 13.7 The Board

- **noted** PHSO operational performance, and the impact on strategic aims, for 2017-18;
- **noted** the progress of PHSO's insight projects in 2017-18.

## **14. Corporate Health Performance Report & Financial Monitoring Report - End of Year Report 2017-18**

14.1 A report by James Hand had been distributed. Gill Kilpatrick, Executive Director Finance and Corporate Services introduced the report to the Board.

14.2 Gill Kilpatrick said that she was pleased to report a significant reduction in long term sick leave. This had steadily reduced since the peak in July, and there was now only one person on long term sick absence. This was stress-related. Alex Allan noted that short term sick leave had increased. Gill Kilpatrick confirmed that this was the case and undertook to provide more detailed information to the Board.

**Action: Gill Kilpatrick to circulate a detailed sick absence report to the Board.**

14.3 Mick King pointed out that table 3b (page 11) was the same as table 4a (page 12). James Hand said that table 4b was incorrect and that he would issue the correct table.

**Action: James Hand to circulate corrected Corporate Health Performance Dashboard**

14.4 Ram Gidoomal said that he would like to see more detailed information on ED&I, specifically relating to Black and Minority Ethnic staffing by grade. Gill Kilpatrick confirmed that more detailed information was available and undertook to share this with the Board.

**Action: Gill Kilpatrick to circulate information on Black and Minority Ethnic Staff by grade to the Board.**

14.5 James Hand said that there were no significant changes since the last business plan update in March 2018 (P10). We had made a decision not to pursue some business plan objectives, which were being taken forward into 2018-19.

14.6 Ruth Sawtell asked if we could be confident that the status of the ED&I action plan objective 5.1, relating to bullying, was green. Amanda Campbell said that we had delivered the action set out in the objective, but had not achieved the desired outcome. The narrative would be amended to reflect this.

**Action: James Hand to amend the narrative at objective 5.1 of the ED&I Action Plan**

- 14.7 Ram Gidoomal asked whether we held geographical data relating to objectives 1.2 and 1.3 of the ED&I action plan. James Hand replied that this information was not held.
- 14.8 Dean Fathers asked whether our ED&I monitoring included how staff progressed through the organisation. Gill Kilpatrick confirmed that this was tracked from initial application onwards.
- 14.9 Dean Fathers asked whether the ED&I characteristics of staff involved in disciplinary action were tracked. Steve James confirmed that they were.
- 14.10 Dean Fathers asked whether it was possible that some staff with disability characteristics did not self-identify as disabled. Gill Kilpatrick that this was possible. Staff were encouraged to disclose characteristics but could not be compelled to do so.
- 14.11 Alex Allan noted that use of the digital online complaints system was declining. Alex Robertson said that this was disappointing. However the design of the system was limited by the constraints of our case management system (CMS), and improvements would be built into future CMS developments.
- 14.12 The Board **noted** the Corporate Health Performance Report.
- 14.13 A Financial Monitoring Report by Richard Muirhead had been distributed as an annex to item 14. Richard Muirhead presented the report to the Board and stressed that all spending was within our control totals.
- 14.14 Alex Allan noted that we had underspent on our capital budget. Ruth Sawtell noted that, in particular, capital allocated to homeworking equipment had not been spent. Gill Kilpatrick responded that the ICT priorities this year had been improvements to our case management system and document management system, neither of which required capital expenditure. Richard Muirhead said that limitations on our capacity to manage programmes meant that some items had not been taken forward. Amanda Campbell added that the relocation to new premises in Manchester had placed significant pressure on the ICT team.
- 14.15 Dean Fathers asked whether we had sufficient cash to deliver on capital projects in the current year. Richard Muirhead said that it was likely that we would need to make a supplementary bid.
- 14.16 The Board **noted** the report, including:
- the end of year position against the 2017-18 Resource and Capital Budgets; and
  - The position against our Parliamentary Control Totals.

## **15. Strategic Risk Report and Register**

15.1 A report by James Hand, including the Strategic Risk Register for P12, had been distributed to the Board. The Board were asked to **review** the risks identified, the actions in mitigation, and the corporate issues being managed.

15.2 James Hand drew the Board's attention to four key developments in the Risk Register:

- The Managing Demand risk (SR1) had been closed as it is being managed as a live issue;
- A new risk, Managing Potential Future Demand (SR14), has been created;
- The risk level for Casework Quality (SR2) had been reduced from 12 to 8, although the risk status remained Amber;
- Strategic ICT Change had been identified as a new risk (SR16).

15.3 Ruth Sawtell said that she was pleased that we had now acknowledged Strategic ICT as an area of risk. However she was concerned that this had not emerged earlier. Gill Kilpatrick said that it had been identified during the Business Plan process and had been added to the Corporate Risk Register, but had not been seen as a strategic risk at that time.

15.4 Ruth Sawtell noted that the impact of the General Data Protection Regulations was also recorded as a new strategic risk (SR17). She said she had understood that we were well prepared for CDPR so was concerned that it now appeared as an area of risk. Amanda Campbell said that, whilst we were well prepared, it had been recorded as a risk as the future volume of enquiries was unknown.

15.5 Elisabeth Davies said that GDPR had been discussed at Quality Committee and she had asked for some reassurance that GDPR would not prevent us seeking feedback on quality from users of our serve. Karl Banister said that our privacy notice had been updated; we were sure of the legal basis for seeking user feedback and were confident that we could continue.

15.6 Elisabeth Davies asked about the status of the issues log (Annex 2 to the report). James Hand confirmed that there was no change in its status; we intended to retain the issues log. The issues listed were discussed at the Risk Forum and by the Senior Leadership Group before coming to the Board.

## **16. Risk Management Policy**

16.1 A paper by James Hand, introducing a draft Risk Management Policy, had been distributed to the Board.

16.2 James Hand informed the Board Risk Management currently formed part of the Governance Framework. ARAC had accepted an audit recommendation that there should be a separate risk management policy, and had considered

and agreed the draft policy, which was now being referred to the Board for approval.

16.3 Alan Graham said that the policy had been discussed and amended by ARAC. Details of the discussion were available in the ARAC minutes (Item 21). ARAC fully supported the policy. Ruth Sawtell agreed, and said that the policy was a good example of how responsibility could be assigned effectively.

16.4 Dean Fathers said that the policy was consistent with Institute of Management good practice. He asked whether it had been benchmarked against other Ombudsmen. James Hand said that it had not, but it had been benchmarked against other public sector organisations.

16.5 Alex Allan said that the draft policy was consistent with recent Board discussions on risk appetite and transparency.

16.6 The Board:

- **agreed** that risk management should be removed from the Governance Framework and become a standalone policy;
- **approved** the Risk Management Policy.

## 17. Strategic ICT Risk

17.1 A report by Stuart Ogden (Head of ICT and Accommodation) had been distributed to the Board.

17.2 Stuart Ogden said that the report had been produced following discussion by the Board on 22 March 2018, where the Board had asked the Executive Team to consider strategic ICT risks. The report set out four key ICT risks, and the actions being planned or taken to mitigate those risks:

- the absence of an ICT strategy;
- the limited capabilities of Dynamics 365 as our casework management system;
- the ICT service provided by PHSO
- The Capita managed service contract, which expires in November 2018. However this also created an opportunity to re-specify the contract to align with current priorities.

17.3 The Board **considered** the risks and actions in mitigation.

17.3 Ram Gidoomal asked who was leading on the risk, how the work would be led, and whether there were sufficient resources. Stuart Ogden confirmed that he would be leading through a series of project boards, using subject matter experts. Each piece of work would go through a project management process which would also determine the funding requirement. Alex Robertson said that governance of the strategy would be through the Transformation Programme.

17.4 Dean Fathers asked if the ICT strategy would be driven by developments in artificial intelligence. Stuart Ogden replied that the strategy was in its early stages, but that where it would be appropriate and useful we would look at the possibility of using artificial intelligence.

17.5 Julia Tabreham asked if we needed our systems to interface more directly with those of other organisations, such as the NHS and LGSCO. Stuart Ogden said that the aim was to meet all of the needs of the organisation. We were talking to LGSCO about developing joint systems and also looking at whether we could interface directly with the NHS.

17.6 Alex Allan asked if there was sufficient time to set up a new service contract. Stuart Ogden said one of the risk mitigations was to extend the current contract by a limited period, in order to ensure a smooth transition to the new contract.

17.7 Alan Graham asked if the ICT risk extended to PHSO's financial management systems. Gill Kilpatrick said that the financial management was robust and stable. However the human resources ICT system was less so.

## **18. Annual Report and Accounts 2017-18**

18.1 A report by Alex Robertson had been distributed to the Board, together with the draft Annual Report and Accounts.

18.2 Alex Robertson advised the Board that the draft Annual Report and Accounts were now with the National Audit Office (NAO). They would be amended in line with any feedback from NAO then would come before the Board again for final approval on 6 July 2018. Alan Graham added that it would also be reviewed by ARAC immediately before the 6 July Board.

18.3 Ruth Sawtell said that she was concerned that the draft Annual Report still made a number of references to *our casework* and *our services* etc. Amanda Campbell said that most had been removed, but that where we deemed it appropriate they had been retained.

18.4 Julia Tabreham queried whether, as stated on page 21, NHS Trusts *must* share our investigation reports with the Care Quality Commission. Rob Behrens said that there is no legal requirement for them to do so. Rather we ask them to. Amanda Campbell said that we were looking at the possibility of sharing reports with CQC directly.

18.5 Dean Fathers suggested that future reports should be prepared using Integrated Reporting principles. Alex Robertson said that the report was intended to meet a number of reporting requirements, but would be redeveloped on 2018-19 as we would be reporting against our new strategy.

18.6 The Board **noted** the draft Annual Report and Accounts.

## **19. Stakeholder Research**

- 19.1 A report by Warren Seddon, including a summary of findings from MP research in 2017, and a summary of activities to increase awareness of PHSO, had been distributed to the Board.
- 19.2 Warren Seddon explained the 2017 survey of MPs suggested that we were perceived positively by an increasing proportion of MPs and that, broadly, we were in a good place. On that basis he was proposing that we did not carry out a stakeholder survey this year, but that we should do so in 2019-20, which would be the middle year of our new strategy.
- 19.3 Alex Allan asked who we considered to be our stakeholders. Warren Seddon replied that, in the context of this proposal he was mainly referring to MPs and regulators. We carried out separate, ongoing research into the views of our complainants.
- 19.4 Elisabeth Davies said that it was important that we recognised the role played by MPs' caseworkers, who were often key in generating referrals to PHSO. Warren Seddon agreed, and said that he had recently attended an event in Parliament for MPs' caseworkers.
- 19.5 Dean Fathers asked if we had any contact with Lords who had a Health interest. Warren Seddon confirmed that we did, and said that a meeting was being arranged between the Ombudsman and Peers.
- 19.6 The Board **noted** the research findings and **agreed** the proposal not to conduct research this year.

## **20. Value for Money Study and response to PACAC. 20.1 A**

paper by Richard Muirhead had been distributed to the Board.

- 20.2 Richard Muirhead explained that the paper aimed to set out our approach to delivering our Business Plan commitment to carry out a Value for Money study. It also included as an annex a draft response to recommendations made by PACAC in their annual scrutiny report, which included a recommendation to commission an external Value for Money study.
- 20.3 Richard Muirhead said that the paper sought to define what we understood by Value for Money. He said that assessing how we added value through our casework was particularly difficult. It was proposed to take the work forward in two stages, which would allow us to take into account the Value for Money pilots being taken forward by Michael Barber and to draw on work by the Cabinet Office.
- 20.4 Rob Behrens said that, rather than commission an external consultancy assessment, we proposed to carry out a peer assessment by another Ombudsman and panel.

20.5 Ram Gidoomal said that it was important that monetary value was balanced with equity. Rob Behrens agreed, saying that some communities were under-represented. The issue was to extend use of our service beyond our traditional customer base. This was not necessarily a question of spending more money.

20.6 Dean Fathers said that the question of how we added value was extremely complex. It arguably included the cost of alternative means of resolution, such as judicial review, as well as the value of our insight reports and the provision of themes of learning to the NHS both nationally and regionally. Rob Behrens agreed, saying that our insight reports were crucial. Elisabeth Davies said that values must include what our service users value. Alan Graham agreed that value went much wider than simple monetary value.

20.7 Julia Tabreham said that we needed a clear methodology to determine and demonstrate the value of our service. Other key issues were how we dealt with barriers to access, and the impact we had on partners such as independent complaint advocates.

20.8 Ruth Sawtell asked about future insight reports. Warren Seddon replied that we were looking at options for future insight papers. The limitations of our casework management system made it difficult to use data to inform future reports. However several options for future papers were being considered. The Ombudsman stressed that the impetus had to flow from themes within our casework. Dean Fathers asked whether Windrush might be an option. Warren Seddon said that there were no related cases as yet.

20.9 The Board:

- Agreed the proposed approach to the Value for Money study;
- **Noted** the draft response to the PACAC report.

## **21. Report: Audit and Risk Assurance Committee**

21.1 The draft minutes of the ARAC meeting of 10 May 2018 had been circulated. Alan Graham (Committee Chair) provided the Board with an update on matters discussed at the meeting.

21.2 Alan Graham reported that NAO's representation on the Committee had changed as their senior person had moved on.

21.3 Alan Graham said that he and Richard Muirhead had exchanged correspondence with Treasury over the error in the supplementary estimates. Treasury had acknowledged their part in the error and there was a clear audit trail.

21.4 Alan Graham said that KPMG had carried out two internal audits. The Corporate Performance audit had been satisfactory (amber/green). The draft report of the Business Continuity Audit had been submitted to the Executive Team, who were now in discussion with KPMG about the audit

findings. However KPMG had assured ARAC that business continuity was in place. Amanda Campbell added that our systems had proved to be resilient in practice, but that there were issues with the documentation.

21.5 The recommendations of the Information Commissioner's Office Data Protection Audit had now been implemented.

21.6 Since the meeting on 10 May 2018 the technical walkthrough of accounts had taken place. Notes were available if needed

21.7 Alan Graham advised that KPMG's contract as out internal auditors ended this year and procurement for a new contract would commence shortly. Amanda Campbell added that procurement was being undertaken jointly with LGSCO.

21.8 Elisabeth Davies asked about the timing of the Equality, Diversity and Inclusion internal audit report and whether it should be held back until after the Insight report was issued. Gill Kilpatrick said that they approached the subject from different perspectives but that they would be combined into one plan.

21.9 Alan Graham advised that the next ARAC meeting would discuss the Finance and Governance Statements, but there would be no ARAC deep dive in July.

## **22. Report: Quality Committee**

22.1 Draft minutes of the Quality Committee meeting on 23 May 2018 had been distributed. Elisabeth Davies said that each Committee Member would feed back to the Board on part of the Committee's business.

22.2 Elisabeth Davies said that the Committee had for the first time received a quarterly Quality report which included three sets of data from multiple sources: Complainant feedback; our own Casework Process Assurance scores; Customer Care Team insight; and feedback from Organisations we investigate. This was starting to produce a broader picture, with synergy across the data.

22.3 Elisabeth Davies said she wished to draw the Board's attention to two points in the minutes. At 4.17 the Committee was seeking reassurance about the process and guidance for caseworkers when determining that cases were premature. At 4.12 the Committee had raised concerns about the continued declining score on Commitment 8 (thoroughness) and were asking when this was likely to be reversed. One of the key focuses of the Committee was asking when we could expect to see improvements in Quality flowing through from changes to processes and the training programme. Amanda Campbell said that the Behavioural Insights Team had noted that much of the work we did was not always visible to complainants and had recommended that we should set out how we had investigated the complaint in far greater detail.



- 22.4 Julia Tabreham said that Quality went much broader than the Service Charter standards and included factors such as barriers to access and the underrepresentation of certain groups, as well as the value added by our Insight reporting.
- 22.5 Julia Tabreham said that measuring quality was challenging even where ready measures existed. It was not always appropriate to average or aggregate data, or to look at variance and tolerance. Looking at Quality also required information about outlier cases.
- 22.6 Dean Fathers reported that the Quality Committee had discussed the value of direct user engagement and were looking at how best to incorporate the qualitative feedback which would be obtained from users into our Committee structure. This would also need to include feedback from Bodies in Jurisdiction. He said that 'data blindness' was a particular challenge - too much data made it difficult to pick out that which was useful.
- 22.7 Mick King said that he was also concerned about data blindness. Whilst LGSCO did not have a Quality Committee, they did operate a separate Quality Oversight process which involved 32 quality measures. However in his view the best measure of quality was the finished product in the form of investigation reports. He reflected that he was not aware of any Ombudsman scheme that could definitively say whether quality was improving or declining.
- 22.8 Ram Gidoomal asked when the Quality Assurance scorecard would be ready to publish externally. Elisabeth Davies said that the scorecard was being developed mainly for internal use. Alex Robertson added that it would need to be meaningful, and to be tested carefully.
- 22.9 Ram Gidoomal said that the Committee's work was important. Confidence in quality was integral to PHSO's standing. Building that quality was a long term project.
- 22.10 Alex Allan said that he admired the Committee's thorough approach. He commented that he shared the concerns set out in para. 4.7 of the minutes about the loss of specialist knowledge and said that it was essential that we moved to a comprehensive knowledge platform. Alex Robertson said that we were working hard to develop this.

### **23. Governance Report - Register of Interests and Fit and Proper Person Policy**

- 23.1 A report by Gill Kilpatrick, including an updated Register of Board Member Interests had been distributed. Martyn Schofield (Head of Governance) presented the report to the Board.
- 23.2 Martyn Schofield asked that Board Members advise her of any amendments to the register of interests or otherwise confirm that their entry is correct.

23.3 The Board **agreed** that the Fit and Proper Person Policy should be incorporated into the Governance Framework and come under the remit of ARAC.

## **24. Any Other Business**

24.1 Alex Allan provided the Board with a brief update on the Clinical Advice Review which he was taking forward. Julia Tabreham was also involved. The review team had recently met with the Assistant Director for Clinical Advice, a group of senior clinicians, and a senior caseworker. The review was challenging, as it was consulting widely both internally and externally. The review report was due in November. There was some overlap with the work on the new clinical standard, so the team were also working closely with Karl Banister.

24.2 Rob Behrens said that it was Richard Muirhead's final attendance at a PHSO Board meeting as he is leaving the organisation to take up a new role outside. He thanked Richard for the work he had done for the organisation and his contribution to Board meetings.

## **25. Review of the Meeting**

25.1 Rob Behrens asked the observers present for their views of the meeting. Brad Denton said that he had found the meeting extremely interesting, with lots of questions from different perspectives. David Guy said that it had been useful and interesting, and not at all dry. It was personally useful to him to see where his work as a performance analyst ends up.

25.2 Rob Behrens said that Dean Fathers had made some really useful points about bringing in user perspectives. He said that it was also vital that we obtained body in jurisdiction perspective.

25.3 Dean Fathers said that the meeting had had a very good focus on diversity.

## **26. Next Meeting**

26.1 The next meeting is on 27 September 2018 in Manchester.

**The meeting ended at 16:00**

**EXTRAORDINARY BOARD  
MEETING**

**6 JULY 2018**

**Minutes (Approved)**

## **MINUTES OF EXTRAORDINARY BOARD MEETING**

**6 July 2018**

### **CHAIR:**

Rob Behrens CBE, the Ombudsman

### **NON-EXECUTIVE MEMBERS:**

Sir Alex Allan KCB

Elisabeth Davies

Dean Fathers

Ram Gidoomal CBE

Alan Graham MBE

Ruth Sawtell

### **EXECUTIVE MEMBERS:**

Amanda Campbell CBE, Chief Executive

Gill Kilpatrick, Executive Director of Corporate Services

Alex Robertson, Executive Director of Strategy & Operations

### **IN ATTENDANCE:**

Karl Banister, Director of Legal and Professional Services

Lisa Kitto, Interim Director of Resources

Maria Mansfeld, Director of Communications

Richard Muirhead, Director of Finance

Martyn Schofield, Assistant Director Governance

David Tanhamira, Governance Officer (minutes)

Paula Woodward, Chief of Staff

### **APOLOGIES**

Mick King

Dr Julia Tabreham

## **1 Chair's introduction and welcome**

- 1.1 The Chair welcomed members and attendees to the meeting and advised that this was the last Board meeting for Richard Muirhead, Director of Finance who would be leaving the PHSO soon. The Chair also welcomed Lisa Kitto, Interim Director of Resources.

## **2 Declarations of interest**

- 2.1 There were no declarations of interest.

## **3 STEWARDSHIP & GOVERNANCE**

### **Audit and Risk Assurance Committee Chair's Verbal Report to the Board and Audit and Risk Assurance Committee Annual Report 2017-18**

- 3.1 The Chair of Audit and Risk Assurance Committee (ARAC), Alan Graham, provided a verbal report on the outcome of the ARAC meeting held just prior

to the Board. Alan Graham reported that 5 internal audit reports in the 2017/18 Internal Audit Plan were awarded assurance rating between partial assurance to significant assurance with improvement and minor improvement. Governance and Risk Management, Change Portfolio Management and Corporate Performance reporting (including data quality) were highlighted.

### 3.2 The Board:

- i) **Noted** the Audit and Risk Assurance Committee Chair's Verbal Report;
- ii) **Noted** the Audit Risk and Assurance Committee Report 2017-18.

## **4 Annual Report and Accounts 2017-18 and National Audit Office Completion Report**

4.1 Gill Kilpatrick, Executive Director Finance and Corporate Services, commended the positive and helpful relationship with the National Audit Office (NAO) and efforts of the Finance Team.

### 4.2 The Board:

- i) **Approved** the Ombudsman's Annual Report and Accounts 2017/18 for signature; and
- ii) **Approved** the Letter of Representation for signature.

## **5 Date and location of next meeting**

5.1 The next Board meeting would be held in Manchester on Thursday, 27 September 2018.

## **6 Any other business**

6.1 There was no other business.

The meeting ended at 13.45

**PHSO BOARD OPEN  
MEETING**

**27 September 2018**

**Minutes (Approved)**

## **MINUTES OF PHSO BOARD OPEN SESSION MEETING**

**27 September 2018**

### **CHAIR:**

Rob Behrens CBE, Ombudsman

### **NON-EXECUTIVES**

Sir Alex Allan KCB

Elisabeth Davies

Dean Fathers

Ram Gidoomal CBE

Alan Graham MBE

Mick King

Ruth Sawtell

Dr Julia Tabreham

### **EXECUTIVES**

Amanda Campbell, Chief Executive

Alex Robertson, Executive Director of Strategy and Operations

### **IN ATTENDANCE:**

Karl Banister, Director of Legal and Professional Services

Andrew Dawson, Governance officer (minutes)

Hames Hand, Assistant Director of Business Management

Abigail Howarth, Director of Operations and Quality

Lisa Kitto, Director of Resources

Steve James, Director of Human Resources

Stuart Ogden, Assistant Director of ICT and Accommodation

Martyn Schofield, Assistant Director of Governance

Paula Woodward, Chief of Staff

### **Apologies**

Gill Kilpatrick, Executive Director of Corporate Services

### **Observers**

Mark Armstrong, Assistant Director of Programme Office

Anna Brady, Programme Co-ordinator

Helen Holmes, Interim Assistant Director of Governance from 1 October 2018

## **6. Chair's Introduction and Welcome**

- 6.1 The Chair welcomed members, others present and observers to the meeting. He noted that it was Martyn Schofield's last Board Meeting, thanked Martyn for her significant contribution and added that she would be greatly missed by the Board and the wider organisation.

## **7. Declarations of Interest**

- 7.2 There were no declarations of interest relevant to items on the agenda

## **8. Minutes and Matters Arising**

- 8.1 The minutes of the meeting held on 21 June 2018 were approved subject to the following correction and other minor corrections. At 14.4 Ram Gidoomal had asked for a breakdown of Black and Minority Ethnic staffing by grade.
- 8.2 The minutes of the meeting held on 6 July 2018 were approved.

## **9. Chief Executive's Report to the Board**

- 9.1 The Chief Executive's report had been circulated to the Board. The report was **noted**.
- 9.2 Amanda Campbell said that she wished to highlight to the Board the progress made in various Transformation Programme projects set out in the report, including the publication of a project management handbook 'Delivering Change at PHSO' and a monthly transformation newsletter. She said that the progress made on so many fronts meant that the organisation was now in a very different place to where it had been 18 months ago.
- 9.3 Amanda Campbell said that we had now agreed an approach to dealing with State Pension Age Inequality cases. There were several thousand cases going through DWP's complaints process and PHSO had received about 50 cases so far. We intend to examine six cases as test cases and will then assess and categorise other cases received in line with the test cases.
- 9.4 Ruth Sawtell asked if the organisation had used the 'test case' approach to investigations in previous cases. Amanda Campbell confirmed that we had in a number of cases, including the State Earnings Related Pensions investigations. Our legal advice was that this approach was sound.
- 9.5 Julia Tabreham said that she was interested in the emerging concerns protocol; she asked how it would work and whether it could identify hidden harm. Amanda Campbell said that the aim was for the protocol to identify immediate harm, from cultural or high level failings, as well as lower level failings which could result in hidden harm. PHSO had agreed to host a series of regional meetings, including one in Manchester before the end of the year.



- 9.6 Dean Fathers said that the report showed that we were making good progress on diversity, particularly through the Diversity Steering and Working Groups.

**Elisabeth Davies took the Chair**

**10. Ombudsman's report to the Board**

10.1 The Ombudsman's report had been circulated. The Board **noted** the report.

10.2 Rob Behrens said that, as set out in paragraphs 1.1 and 1.2 of his report, he detected a significant change across the organisation. There was a clear and positive change in the mood of staff, and working relationships were more constructive. Staff saw this change as permanent rather than temporary.

10.3 10.4 Rob Behrens said that he had spoken in Vienna to a conference of auditors and ombudsmen on the subject of assuring accountability in Government, following which he had met with the European Ombudsman.

10.4 Alan Graham asked about the external perception of the Ombudsman, and how this could be improved. Rob Behrens said that the external perception was fragmented, with differing views across various stakeholder sectors. However it was clear that stakeholders were keen to talk to us and work with us.

10.5 Ram Gidoomal asked if we carried out perception audits. Alex Robertson said that we had carried out a general exercise in 2016, and more recently a survey involving MPs. Elisabeth Davies commented the Value for Money study had identified public confidence as an important issue which merited further study. She said that if public perception of the Ombudsman improved this could have implications for casework.

**Rob Behrens took the Chair**

**11. Operational Performance Report July (P4) 2018/19**

11.1 A report by James Hand, Assistant Director of Business management, and Ian Higgins, Management Information manager, had been circulated. Abigail Howarth presented the report to the Board.

11.2 Highlights from the report included:

- Delivery against the Transition Plan was on track and we were slightly ahead of where we expected to be.
- The time taken to resolve complaints was increasing; all cases were at 152 days, whereas investigations was at 302 days. Abigail Howarth said that this was not unexpected as we were now dealing with older cases, and changes in policy and process were also having an impact.
- The number of cases over 12 months old was increasing and stood at 220. This will continue to increase in coming months despite productivity increases. Abigail Howarth said that plans were in place to manage the

reduction of this part of the workload in future. In the meantime we will still honour commitments made to PACAC and will still deliver our Transition Plan.

- We are changing the terminology used in our closure codes to more accurately record and report the work that we are doing. We are now resolving more cases at assessment stage than in previous years. The number of cases closed as resolutions was also increasing.
- 

**Action: Transition Plan Progress Tracker to be enhanced for the P7 report**

- 11.4 Ram Gidoomal asked what additional resources would be required to resolve the rising numbers of cases over 12 months old. Abigail Howarth replied that additional resources would not really help. The issue was one of staff experience and training.
- 11.5 Julia Tabreham said that she welcomed the creation of a single queue of old cases. She said that the Activity Tracker was very helpful, but asked whether the projections assumed constant demand and whether we had factored in State Pension Inequality (SPI) cases and other variable factors. Abigail Howarth replied that demand in previous years had been fairly flat, but that the SPI cases had been factored in. Amanda Campbell said that although there were many SPI cases, they were on the whole similar. Alex Allan pointed out that, even so, the high volume of cases expected would distort the statistics. Abigail Howarth agreed that we needed to look at how SPI cases were assimilated.
- 11.6 Elisabeth Davies asked whether we were satisfied that our key performance indicators measured the right things. Abigail Howarth said that she believed that, even if they were more focused on early resolution and other closures, the picture would be similar.
- 11.6 Elisabeth Davies said that it was interesting to reflect on early resolution and other non-investigation cases, and asked what implication this could have for what the Board see and our key performance indicators. Abigail Howarth said that this as an area requiring further consideration. However one impact of early resolution was to release resources further on; staff had recognised this and were keen to share resources on that basis. Mick King suggested that early resolution may mean that systemic failures would be less visible. There could also be an impact further along the complaints system.
- 11.7 Abigail Howarth said that we would be implementing early resolution in two phases. Currently it was being piloted at intake, where we were looking at straightforward resolutions. The next phase would be about looking at different types of resolution, for example mediation. The focus was to get the right outcome for the complainant without investigation where possible.
- 11.8 Ruth Sawtell asked if the decline in the score for 'Giving a Good Service' was linked to the increase in time taken to resolve cases. Abigail Howarth said that timeliness was a major driver of customer satisfaction. However Elisabeth

Davies commented that the red markers were on our internal Quality Assurance scores rather than on customer feedback.

11.9 The Board **noted** the operational performance and the impact on the achievement of PHSO strategic objectives.

## **12. Corporate Health Performance Report, July (P4) 2018/19**

12.1 A report by James Hand had been circulated.

12.2 Highlights of the report included:

- Sickness absence levels have reduced from 10.5 days (rolling 12 month average per FTE) at the end of 2017/18 to 9.5 days at the end of P4. This was approaching the target of 8.5 days, although we are still outside of tolerance.
- Learning & Development days currently stood at 1.8 days per FTE, compared to 0.5 days for the same period last year. We expect to achieve the annual target of 5 days.
- All of our Business Plan activities for 2018/19 are on track.

12.2 Mick King expressed concern that cash in the bank had fallen below £100k. Lisa Kitto, Director of Resources, explained that it had fallen briefly to £97k. This was a one-off and should not be repeated. Alex Allan commented that the cash balance at the end of the year had been significantly higher. Lisa Kitto said that we were now much better at forecasting and had greater control than last year.

12.3 Elisabeth Davies said that the report clearly showed the strength of our programme management, which was a credit to the Programme Management team.

12.4 Steve James, Director of Human Resources, spoke to the Board about progress against the Equality, Diversity and Inclusion (ED&I) action plan. He explained that the plan had been refreshed and now captured information from all sources in a single document.

12.5 Elisabeth Davies said that it was helpful to have a single plan. She asked how, on Strategic Objective 1, ED&I factors would be captured in our casework decision making process. Steve James replied that this formed part of our ED&I Specialist's project, and would feed back to the ED&I Steering Group. Alex Robertson said that the ED&I Specialist would also be looking at our research into the experience of Black and Minority Ethnic complainants.

12.6 Dean Fathers said that there was a very positive feel across all of the reports. It was clear that there were many positive actions going on. The position wasn't perfect, but the reports were very open about areas which required improvement.

12.7 The Board **noted** the report, the impact on the achievement of strategic objectives and the progress against business plan and ED&I plan objectives.

12.8 The Board **agreed** the refreshed ED&I Action Plan.

### **13. Financial Monitoring Report, 31 July 2018**

13.1 A report by Lisa Kitto had been circulated.

13.2 Lisa Kitto said that the main financial headline was that there was currently a forecast overspend against the resource budget of £99k (0.3%). We were monitoring the position carefully, expected to recover, and it was possible that we might underspend slightly. On Capital there was a forecast underspend of £300k, which we were looking at ways to utilise. In particular the Technology Board was looking at options.

13.3 Ruth Sawtell said that she had met recently with our ICT Strategy consultant, following which she understood that there was an issue of outdated ICT equipment and, in particular, home working was not properly supported. Lisa Kitto said that these matters were being taken forward by the Technology Board. Alex Allan added that he supported the efforts of the Technology Board and that we should aim to avoid capital underspends.

13.4 Julia Tabreham expressed concern about the imposition of higher business rates than we had expected for Citygate. Lisa Kitto explained that our property consultants were clear that the rates were too high and we were therefore challenging them. However we would have to carry the cost at this stage. She added that she had no doubt that the process we had used was correct. Dean Fathers added that this seemed to be a common theme as local authorities sought to increase revenue.

13.5 Ram Gidoomal asked whether it was likely that dilapidation costs would increase. Lisa Kitto said that we were in discussion with the landlords at Millbank Tower, and were monitoring the position carefully.

13.6 The Board **noted** the monitoring position at 31 July 2018 against Resource and Capital budgets, and the forecast position against Parliamentary control totals.

### **14. Strategic Risk Report & Register, P4 (July) 2018/19**

14.1 A report by James Hand, including the Strategic Risk Register, had been circulated.

14.2 James Hand detailed the main changes to the Strategic Risk Register. SR13 (Miller and Howarth Judicial Review) had been closed. However a new risk, SR18, on the possibility of challenges to our new clinical standard, had been raised. SR 17 (Impact of GDPR) had also been closed.

14.3 Ruth Sawtell expressed concern that in Table 3 of the report (Risk Tolerances), we were outside of tolerance in almost half of the metrics. Exceeding

tolerance should be exceptional but she did not get the sense that we were treating this with sufficient urgency. James Hand said that all of the areas where we exceeded tolerance were being addressed. He undertook to provide further detail about the actions being taken. Alex Robertson said that all five metrics had been discussed by the Executive Team and were receiving careful attention.

**Action: Details of actions being taken to address strategic risks which are outside of tolerance to be provided to the Board.**

14.4 Alan Graham asked for an assurance that, below the level of strategic risks and organisation-wide issues detailed in the report and Risk Register, there was another level of risks that were being actively managed. James Hand confirmed that each Directorate had its own risk register, which was managed through the Risk Forum and which elevated risks to strategic level where appropriate.

14.5 The Board:

- **agreed** the strategic risks identified in the report;
- **noted** the actions in mitigation;
- **noted** the corporate issues being managed; and
- **noted** the risk tolerance measures outside threshold and the actions being taken to manage these.

## **15. ICT and Digital Strategy and Capita Contract**

15.1 A paper by Lisa Kitto had been circulated.

15.2 Lisa Kitto explained that the paper set out our plans to develop an ICT and Digital Strategy, which was a key objective for the current financial year. This would include an assessment of infrastructure and applications, and the development of a technology roadmap. We had engaged a firm of consultants to help develop the strategy and they were currently meeting with staff. We expected to receive their findings in the next few weeks.

15.3 Ruth Sawtell referred to her previous comments (par 13.3) and said that we needed to make a cultural and philosophical shift to bring ICT needs into the centre of our decision-making.

15.4 Dean Fathers said that in future we should be aiming to make far greater use of artificial intelligence (AI), both in our insight reports and our investigation processes. We should also be looking to link with the NHS System. Stuart Ogden, Assistant Director of ICT and Accommodation, said that he agreed. There were many opportunities for us to make use of AI.

15.5 Amanda Campbell said that she was fully in agreement, and part of the project brief was to expand the use of AI. She said that a degree of tactical activity was required to make the most of our current system, but that we also needed

to take a careful, measured approach to ensure that we did not end up with the wrong system.

15.6 Stuart Ogden explained that, as the current ICT contract with Capita was due to end in November 2018, the paper asked the Board to approve a further one-year extension until November 2019, until the work on the ICT and Digital Strategy was completed. Amanda Campbell added that it had been a deliberate decision not to go out to market for ICT support until the strategy was in place.

15.7 Alan Graham asked for assurance that the intended timeframe would be adhered to, that there would be no further extension in 12 months, that a suitable standard of service would be maintained, and that we would carry out appropriate due diligence. Stuart Ogden said that there was no intention to seek a further extension and that service would be maintained.

15.8 The Board **noted** the progress made in the development of an ICT and Digital Strategy and approved the proposal to extend the Capita contract until 2019.

**Action:** Redacted Commercial in Confidence

## 16. Microsoft Licenses

16.1 A paper by Stuart Ogden had been circulated.

16.2 Stuart Ogden explained that our current three-year licence to use Microsoft applications expires at the end of October. We are seeking approval to incur anticipated expenditure estimated at £900k over the next three years. However as we do not know the final cost we are also asking for the Board to delegate powers to the Chief Executive to approve further expenditure, subject to limits set out in the scheme of financial delegation.

16.3 Stuart Ogden said that we were looking to identify our licencing needs and to optimise our use of Microsoft applications. We were due to have further talks with Microsoft in the near future and had engaged the services of Insight, a firm of specialist consultants, to help us prepare a tender. We were also working closely with Crown Commercial Services.

16.4 Alan Graham asked if the consultants were independent of Microsoft. Stuart Ogden said that they were.

16.5 The Board:

- **approved** anticipated expenditure of circa £900k over 3 years;
- **agreed** to provide the Chief Executive Officer with delegated powers to approve any increase in the cost of the final contract in line with the limits set out in the Scheme of Financial Delegation;
- **noted** that any increase in costs beyond £900k will be reflected in the 2019/20 budget.

## 17. Value for Money

- 17.1 A paper by James Hand had been circulated. The paper included as an appendix the draft Value for Money Study report of the independent peer review of PHSO.
- 17.2 James Hand summarised the paper for the Board and detailed the process by which the peer review had been commissioned and produced. Following PACAC's recommendation that we should provide robust assurance of the value for money of PHSO's operations, the Ombudsman had approached the Ombudsman Association and the Public Service Ombudsman Group to consider commissioning a peer review from within the Ombuds community. As a result, Peter Tyndall, Ombudsman for Ireland, was appointed to carry out the review and had nominated a panel to support him.
- 17.3 Rob Behrens said that Peter Tyndall was President of the International Ombudsman Institute, with an impeccable record of independence. The study itself also represented value for money. It provided assurance that we are on our way to becoming a more efficient and effective organisation.
- 17.4 Rob Behrens said that he wished to commend Amanda Campbell and her team, and Ram Gidoomal, for the way in which we presented to the panel. He added that he did not sit in on the staff sessions, which were held in private, but feedback from the panel was that our staff are on board.
- 17.5 Rob Behrens added that the report was useful to us in that it recognised that the legislation within which we operate is unhelpful. It supported own-powers investigations and the removal of the MP filter. However to balance the broad endorsement of the new strategy and operations, there were several key areas of criticism:
- excessive oversight of caseworkers;
  - archaic ICT;
  - failure to protect sufficiently casework specialisms.
- 17.6 Elisabeth Davies said that the report was reassuring. Many of the areas of criticism had already been discussed by the Board, the Quality Committee or the Audit and Risk Assurance Committee. Whilst the report was mainly supportive it was clear that there was still scope for improvement. She said there was no complacency about this. She asked how we could make best use of the report, both internally and externally, and whether we should repeat the exercise.
- 17.7 Amanda Campbell agreed that there were two different markets for the report. Internally the report made some valid points and some of the operational issues were already in hand, for example specialisms. Externally, we will report back to PACAC. But there is a wider question of how to promote the peer review approach, as part of a holistic set of assurances at both audit committee and Board level. There was no doubt that the peer review approach had produced a solid piece of evidence. Rob Behrens said that it was now incumbent on us to support other Ombuds in their peer reviews.

- 17.8 Ram Gidoomal said that his main concern had been how the review team would treat Value for Money. In the Ombuds context value clearly went beyond purely financial metrics. A key point of the peer review was that the team had understood the business.
- 17.9 Alex Allan agreed that it was very difficult to identify value for money in an Ombuds organisation. The peer review had achieved this, and had brought out clearly our focus on advice and signposting, which were a significant but undervalued part of our work and for which the organisation deserved credit.
- 17.10 Mick King said that the peer review approach was used widely in local authorities, and went wider than internal audit. However in the Ombuds community PHSO were taking the lead - it was only the second time a peer review approach had been used. He believed that the report would provide assurance to MPs and Parliament. Rob Behrens thanked Mick King for championing the use of peer review.
- 17.11 Alan Graham said the Audit and Risk Assurance Committee would discuss further how to build on this report.
- 17.12 Julia Tabreham agreed that it was a very strong report. She asked who owned the report and what the next steps were. Rob Behrens confirmed that we commissioned the report, but stressed that it is an independent report and the editorial content belonged to the panel. He said that PACAC want Peter Tyndall to appear as a witness. The report contains his intellectual judgement and it is for him to answer. We can then respond.
- 17.13 Dean Fathers agreed that it was a good report. He said that he supported Rob Behrens messages in his report (Item 10). However he was concerned that some of the comparative data in the report could be misconstrued. He said that he fully supported the peer review approach, which he hoped might be used more widely in the NHS.
- 17.14 Rob Behrens asked Board member to submit any further comments on the report to James Hand.
- 17.15 The Board **noted** the progress of the Value for Money Study.

## **18. Clinical Advice Review**

- 18.1 Alex Allan (Review Chair) provided the Board with an update on the activities and progress of the Clinical Advice Review. The review team included Julia Tabreham and Sir Liam Donaldson. The review had met several times since June, and had also had about 15 meetings with clinicians.
- 18.2 The review had recently published a consultation document. Whilst it was a general, open-ended review, it included a section on transparency and whether we should publish the names of clinical advisers in our investigation reports. It also asked for comments on the new clinical standard, and whether



our clinical advisers should get to see and comment on final reports. The consultation ends in October. Following the consultation, it was proposed to hold further meetings with clinicians and complainants to discuss in groups.

- 18.3 Elisabeth Davies said that she was pleased that the review was engaging widely and that complainants were included. As ‘experts by experience’ their views were important.
- 18.4 Amanda Campbell said that the organisation needed to give further input before the review recommendations are finalised, to ensure consistency with our Strategy and affordability.
- 18.5 Julia Tabreham said that the transparency issue was highly complex. However she recognised that clinical advice formed only a small part of most investigations and that the role of our clinicians was different, for example, to when they were giving advice to regulators.
- 18.6 The Board **noted** the progress of the Clinical Advice Review.

## **19. Scheme of Financial Delegation and Procurement Code**

- 19.1 A paper by Lisa Kitto had been circulated, together with an addendum following discussion of the proposals by ARAC on 21 September 2018.
- 19.2 Lisa Kitto explained that we were seeking to introduce a new set of procedures - the Scheme of Financial Delegation - which aimed to bring together all existing delegation limits, and to refresh those limits. Board were also being asked to approve amendments to the Corporate Governance Framework, Finance Code, and Procurement Code.
- 19.3 Lisa Kitto explained the key changes in delegation limits. She stressed that, whilst there would a far greater degree of self-approval, significant checks and controls were in place.
- 19.4 Alan Graham thanked Lisa Kitto for her work on the new procedures. He said that ARAC’s key concerns were that there should be a clear compliance process; that our financial systems should be resilient to ensure proper control, and that the processes should be embedded. ARAC had received assurances in respect of all of these and were content with the process and changes.
- 19.5 The Board:
- **agreed** the amendments to the Corporate Governance Framework, Finance Code and Procurement Code;
  - **noted** the introduction of the Scheme of Financial Delegation;
  - **noted** that ARAC supported the Scheme and the changes to the Corporate Governance Framework, Finance Code and Procurement Code;
  - **noted** that ARAC had suggested some changes to the documents, which would be incorporated in the final versions.

## **20. Internal Audit Procurement**

- 20.1 A paper by Martyn Schofield, Assistant Director of Governance, had been circulated. The paper sought the Board's approval for the specification and business case for a joint exercise (with LGSCO) to appoint new internal auditors from 1 April 2019. At the time of despatch of Board papers (19 September 2018) the paper had not been considered by the Audit and Risk Assurance Committee, who had been due to meet on 21 September 2018.
- 20.2 Alan Graham (ARAC Chair) said that ARAC's terms of reference included advice on the appointment of auditors. When ARAC considered the proposals on 21 September 2018 they had been concerned by some of the details of the business case; by the process to be followed; and by the arrangements for reporting back to ARAC on the procurement. In particular they were concerned that the proposed annual spend on internal audit (£30k) was a significant reduction on the current contract and was not sufficient to fund the number of audit days, of the appropriate quality, to enable the auditors to provide an audit opinion on an annual basis.
- 20.3 Amanda Campbell said that, following the ARAC meeting she had written to ARAC on 25 September 2018 to put forward alternative proposals including an increased funding proposal of £45k per annum. This had been considered by an ad-hoc meeting of ARAC today. She said that in addition to externally sourced internal audit, there were other forms of assurance including the work of the Quality Committee and Governance reviews, and that she was confident that, with these additional mechanisms, the level of externally procured audit could be reduced.
- 20.4 Alan Graham said that on the basis of the revised proposal, ARAC were now happy for the procurement process to continue. Ram Gidoomal and Ruth Sawtell agreed.

## **21. Quality Committee**

- 21.1 Elisabeth Davies said that Quality Committee had met on 13 September 2018, so draft minutes were not yet available. She provided the Board with an update from that meeting.
- 21.2 Elisabeth Davies said that the Committee had considered two substantive papers. The first of these was the quarterly Quality Report, which contained triangulated quality data from multiple sources - our own internal quality assurance work and customer feedback; Review and Feedback Team Insight; and Feedback from organisations we investigate.
- 21.3 The Quality Report had included a Root Cause Analysis of Commitment 14 on signposting to advocacy and advice groups and responding to specific communication needs. This had found that, on signposting, we needed to do more once cases had got past the Intake stage, make better use of our website, and expand the role of the Liaison Team.

21.4 The Quality Report had also included a Casework Deep Dive on Premature Complaints. This had concluded that we were not always clear about explaining to organisations what more we felt they could do before the complaints process was concluded.

21.5 The Quality Committee also considered the Quality Review Progress Update. Priorities for the Quality Review were updating our assurance framework; developing a set of updated Quality standards and measures; reviewing our approach to compliance with our recommendations, and developing a standard Quality terminology.

21.6 Elisabeth Davies said that a common topic for the Committee was the question of when we would see the impact of our training programme. On the whole Quality data was fairly stable, but it was difficult to ask complainants meaningfully to comment on matters such as impartiality and thoroughness. One of the aims of the Quality Review was to find new ways to evidence these metrics.

## **22. Audit and Risk Assurance Committee**

22.1 Minutes of the ARAC meeting of 6 July 2018 had been circulated to the Board. Alan Graham said that the highlights of that meeting had been the approval of the Annual Report and Accounts; an Internal Audit report on business continuity, and the Head of Internal Audit's annual opinion, which had provided significant assurance.

22.2 Alan Graham provided the Board with a verbal report of the ARAC meeting on 21 September 2018, minutes for which were not yet available. He said that the National Audit Office had not attended the meeting as the account manager has changed and other representatives were on leave. He said that we had received the NAO's annual management letter and had made representations to them about some of the content. Alan Graham had recently spoken to the account manager and reported that there were no significant differences of opinion.

22.3 Alan Graham reported that other issues discussed at the September ARAC meeting included:

- The financial management report;
- Audit reports;
- Budget planning;
- The introduction of a Capital and Fixed Assets policy;
- Internal audits: all were on schedule , and we had good assurance on cyber-security;
- The Information Commissioner's Office audit on General Data Protection Regulations, which was amber/green.
- The Register of Policies was reviewed. ARAC were pleased with progress on the policy reviews.

- Karl Banister had given a presentation on Business Continuity, which had provided assurance.
- The joint working protocol between ARAC and Quality Committee had been discussed and agreed.
- Internal Audit Procurement had been discussed.

22.4 Amanda Campbell said that we had since received a further draft of the NAO Management Letter, which still contained issues of materiality and accuracy. She would therefore be writing back to NAO. Alan Graham suggested that he and Amanda Campbell should discuss further outside of the meeting.

## **23. Review of the meeting**

23.1 Rob Behrens asked the observers present for their impressions of the meeting.

23.2 Mark Armstrong said that it had been interesting to hear the degree of constructive but robust challenge.

23.3 Anna Brady said that she had been surprised by the pacing of the meeting and the speed through which the Board got through a significant amount of business.

23.4 Helen Holmes agreed that the pacing of the meeting had been excellent, and that adequate time had been given to each item. However she was concerned that the minute taker had been writing continuously for several hours and suggested that the Board should look at alternatives. Andrew Dawson assured the Board that he was quite comfortable.

## **24. Forward Plan, and next meeting**

24.1 The next meeting is in London on 13 December 2018.

**The meeting ended at 16:00**



Department  
of Health &  
Social Care

From Jackie Doyle-Price MP  
Parliamentary Under Secretary of State for Mental Health,  
Inequalities and Suicide Prevention

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Rob Behrens CBE  
Parliamentary and Health Service Ombudsman  
Millbank Tower, 30  
Millbank  
London SW1P 4QP  
Sent by email to: [rob.behrens@ombudsman.org.uk](mailto:rob.behrens@ombudsman.org.uk)

Dear Rob,

At our meeting prior to Christmas Recess, you raised an important point about the December 2017 PHSO report '*Ignoring the alarms: How NHS eating disorder services are failing patients*'.

The Government takes this report seriously. In response to the report, NHS England has convened a working group with the Department of Health and Social Care, NHS Improvement and other partners to co-ordinate actions being taken in response to the recommendations, taking them into account in planning for improvements to adult eating disorder services. The National Clinical Director for Mental Health at NHS England, Professor Tim Kendall, is chairing this working group which has now met three times in 2018.

NHS England commissioned NHS Benchmarking to collect data on current levels of provision across community and inpatient services for adults with an eating disorder. The outputs on current provision, investment and workforce were reported to NHS England in 2018 and a modelling exercise has taken place to establish the baseline, understand the geographical variation, and the cost and workforce required to achieve parity with children and young people's eating disorder services.

This forms part of the information being used to support the NHS Long-Term Plan to improve services for adults with mental health conditions including eating disorders. NHS England have informed Departmental officials that they have written to both yourself and the Hart family setting out how they will implement the recommendations contained in the report. This also set out the actions being

undertaken to review the provision of adult eating disorder services and meet the recommendations with other Arm's Length Bodies named in the report.

NHS England will update you and Mr Hart on the progress of activities to implement the recommendations early in 2019. Any decision to publish a formal response to the report will be made by NHS England, after this update has been provided.

I hope this reassures you that the Department and NHS England have comprehensive programmes of work underway to ensure that the recommendations set out in the report are considered and addressed.



**JACKIE DOYLE-PRICE**