

**PHSO BOARD EXTRAORDINARY MEETING**

**31 January 2019**

**Minutes (Approved)**

## **MINUTES OF PHSO BOARD EXTRAORDINARY MEETING**

**31 January 2019**

### **CHAIR:**

Rob Behrens CBE, Parliamentary and Health Service Ombudsman

### **NON-EXECUTIVES**

Sir Alex Allan KCB

Elisabeth Davies

Ram Gidoomal CBE

Alan Graham MBE

Ruth Sawtell

### **EXECUTIVES**

Amanda Campbell, Chief Executive

Gill Kilpatrick, Executive Director of Corporate Services

Alex Robertson, Executive Director of Strategy and Operations

### **APOLOGIES**

Dean Fathers

Mick King

Dr Julia Tabreham

### **IN ATTENDANCE:**

Karl Banister, Director of Legal and Professional Services

Andrew Dawson, Governance officer (minutes)

James Hand, Assistant Director of Business Management

Helen Holmes, Assistant Director of Governance

Abigail Howarth, Director of Operations and Quality

Steve James, Director of Human Resources

Shareena Merzi, Director of Communications

Richard O'Connell, Director of Resources

Warren Seddon, Director of Strategy and Insight

Paula Woodward, Chief of Staff

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

- 1.1 The Chair welcomed Board members others present to the meeting. In particular he welcomed Richard O'Connell (Director of Resources) to his first Board meeting.
- 1.2 Rob Behrens said that, in the light of the forecast for snow in the evening, he would aim to finish the meeting earlier than the scheduled finish time.
- 1.3 Rob Behrens said that, following the PACAC sessions [DATES] he was satisfied but not complacent.
- 1.4 Rob Behrens congratulated Elisabeth Davies on once again reaching the shortlist for the annual Non-Executive Director Awards in the Not-for-Profit/Public Service Organisation category, and encouraged Board Members to attend the award ceremony on 27 March.

## **2. Declarations of Interest**

- 2.1 There were no declarations of interest relevant to items on the agenda.
- 2.2 Elisabeth Davies said that she had recently been appointed as a member of the Civil Justice Council.

## **3. PHSO Draft Budget and Business Plan 2019/20**

- 3.1 Draft papers by Gill Kilpatrick, Executive Director of Corporate Services, had been distributed to the Board. Gill Kilpatrick presented the papers to the meeting and led the discussion.

### **3(i) Budget 2019/20 - 2020/21 - Strategic Priorities**

- 3.2 Amanda Campbell said that the budget had been prepared against a background where we had had to make savings of £2m per year for the last three years. However it was necessary to make further savings next year, both to deliver on the Comprehensive Spending Review (CSR) and to invest in the business so that we could deliver on our Strategy. The Executive Team had identified a list of potential savings, which was at Annex A to the Budget paper.
- 3.3 Amanda Campbell said that the capital allocation for 2019/20 fell short of what we needed. We were making a further bid to HM Treasury. However we also needed to create headroom by reducing resource expenditure. In the event that further funding was received this would give us further flexibility.
- 3.4 Amanda Campbell explained that the capital position was caused by two factors: the need to replace the Capita ICT Support contract, and the

urgent need to replace the Casework Management System as Microsoft had said that they will not support the current system beyond March 2019

- 3.5 Gill Kilpatrick provided the Board with an update on the progress of discussions with HM Treasury, which had been positive and constructive. She said that we expected to submit the bid w/c 4 February 2019.
- 3.6 Alan Graham asked about the process and timetable for the CSR bid, and whether there was any indication of numbers. Gill Kilpatrick replied that there was currently no indicative CSR timetable from HM Treasury, and no indication of likely funding except that there may be a broad flat funding assumption. Richard O'Connell added in the absence of any certainty it was necessary to plan for multiple options.
- 3.7 Ram Gidoomal asked how many cases were likely to be affected by the Casework Policy Proposals at Annex B. Abigail Howarth said that we were currently testing the impact of the proposed changes and that she hoped to have numbers in the next few weeks. Amanda Campbell said that Mick King had telephoned to express his support for the proposed changes, which were in line with current practice by LGSCO and other Ombudsmen.
- 3.8 Elisabeth Davies asked about possible implications for our Quality Assurance process. She said she would welcome assurances that the QA process would not be diminished. Abigail Howarth said that the checking /sampling process and consistency would be set out in the Quality Framework, due to be completed in April 2019, which would ensure that all Quality Checks were put in place.
- 3.9 Alex Allan noted that the proposal to decline some cases as not in the public interest to investigate would need to be communicated carefully, making it clear that it was about the proper use of resources.
- 3.10 Alex Allan noted that asked about resources for the implementation of the clinical advice review .Amanda Campbell replied that funding beyond 2019 would be committed if required.
- 3.11 Ruth Sawtell asked about savings from Early Dispute Resolution. Alex Robertson replied that a pilot project was planned for next year. This would require some investment but would eventually produce significant savings. Amanda Campbell said that the intention was that investment/expenditure would be front loaded. Some EDR activity was already taking place in Intake and was producing savings. Gill Kilpatrick said that the Transformation Programme would focus on realising the benefits of EDR, but that these could not be included in to the budget without evidence. Elisabeth Davies asked whether the benefits were financial, or in terms of quality. Gill Kilpatrick confirmed that we needed to consider broader business benefits in addition to financial savings.
- 3.12 Rob Behrens asked about the £198.3k allocated to maintaining casework Key Performance Indicators) (KPIs) (Par.3.3 Table 2). Abigail Howarth said that

this would be used to fund five additional full time equivalent staff which we believed would be required to deliver our KPIs in 2019/20. This may not be needed in later years.

- 3.13 Rob Behrens asked whether the allocation for the legal contingency was appropriate. Karl Banister said that this was a judgment based on current and projected activity, and could be moved into other budget heads if not needed for legal matters.
- 3.14 Alan Graham asked how the proposal (par.3.6) to capitalise the headroom produced by savings in expenditure would work on a technical level. Richard O'Connell said that we would need to obtain permission from HM Treasury to move money from revenue to capital, but that this was relatively easy.
- 3.15 Elisabeth Davies asked about the level of confidence we had in the modelling used to make casework projections. Abigail Howarth replied that we had several years' robust data and were therefore confident that the approach used was correct. Demand had been stable for several years despite significant changes in the NHS. She said that we had looked at this very closely, taking into account lead and lag indicators, but we were satisfied that the modelling was robust.
- 3.16 Elisabeth Davies asked about the alignment between the Budget and our Corporate Strategy. She was looking for assurance that we aimed to deliver improvements. Amanda Campbell said that the available evidence showed that we were improving, for example we had no casework queues. The aim now was to maintain that level of throughput. Alex Robertson added that significant amounts of new activity were planned for next year. The commitment was not just to improve, but to deliver on these activities. It was difficult to predict what impact these would have on performance.
- 3.17 Elisabeth Davies said that the Service Charter data did not currently show that we were improving, although this might come through in other Quality measures. Abigail Howarth agreed that the Service Charter data was stable, but said that there was an indirect correlation between these and other members. It was also important to look at baseline scores.
- 3.18 Rob Behrens commented that the Board needed to be confident that we had not underestimated the risks involved in the resource budget proposals. Amanda Campbell said that there was a risk in respect of severance costs. Whilst reductions in staff numbers were required the aim was to avoid redundancies as far as possible, but there may be a requirement which could not be quantified at this stage.
- 3.19 Amanda Campbell said that the other key risk concerned capital for the ICT strategy (see 3.4 above). Further work was required to quantify the likely costs involved, which would be completed by the March Board, when we will also have HM Treasury's response to the additional funding bid.

- 3.20 The Board discussed the projected savings set out in Annex A. Alan Graham asked about the proposed savings from streamlining management information. James Hand explained that automation of data collection would produce significant savings in staff costs.
- 3.21 Alex Allan asked about the savings from exiting the Capita contract. Gill Kilpatrick explained that we pay currently Capita a significant sum for support services which could be provided internally, with significantly reduced resource costs. However this would require additional capital for infrastructure.
- 3.22 Rob Behrens asked about proposals to reduce engagement activity. Shareena Merzi said that this was solely about internal engagement. The savings would mainly come from not producing posters.
- 3.23 Amanda Campbell said that Julia Tabreham had queried whether it was appropriate to cease providing lunch at the annual open meeting. However the £6k cost could not be justified.
- 3.24 Alan Graham asked whether it was intended to completely cease using recruitment consultants. Rob Behrens and Ruth Sawtell sought assurance that they would still be used for key vacancies, including Board vacancies. Steve James explained that it was not proposed to cease completely. The cost of Board member recruitment had been factored into the budget.
- 3.25 The Board
- **noted** the financial outlook for 2019/20 to 20120/21.
  - **confirmed** that they were content with the balance of priorities between investments to deliver year 2 of our corporate strategy and the savings proposals to fund these, including the proposed changes in casework policy.
  - **noted** the process to present a final budget to the Board meeting on 27 March 2019.

### **3 (ii) Draft Business Plan 2019/20**

- 3.26 Amanda Campbell said that the draft Business Plan was a first draft which was intended to cover the delivery of our corporate strategy during 2019/20.
- 3.27 Elisabeth Davis commented that the Strategy set out very clearly what would be different after three years. She wondered if we could say what would be different after two years, and whether the read across between input and outcomes was as strong as it could be. James Hand and Warren Seddon agreed that we could do more in the Business Plan to set out the end state after two years. We had made significant changes and would continue to do so in the coming year.
- 3.28 Alex Allan asked how it was proposed to manage risks to delivery. Alex Robertson said that the governance around project delivery had been simplified to reduce bureaucracy. Projects for delivery had been planned to the end of the year, including interdependencies.
- 3.29 Amanda Campbell added that risks would be managed through the Risk Forum, which met monthly and reported to the senior leadership team. There was a clear and rigorous challenge process. Whilst the draft Business Plan set out the three most significant risks to delivery, there was a much deeper layer of subordinate information which was not included.
- 3.30 Richard O'Connell drew Board members' attention to the People Strategy which was aimed at ensuring that the organisation had highly skilled people. Rob Behrens added that the staff survey had highlighted some concerns about development opportunities for non-casework staff-casework staff. Gill Kilpatrick said that this was a concern on Corporate Services. The Business Plan commits us to investing in training in areas other than casework, as well as in improved systems. We are also investing in Leadership and Management training.
- 3.31 Ram Gidoomal noted that the plan set out the impacts on casework of each proposed activity. He asked how risks to casework performance would be fed back to the Board. Amanda Campbell said that risks were monitored on an ongoing basis and significant risks would appear on the strategic risk register.
- 3.32 Elisabeth Davies said that she was pleased to see that the Business Plan made the link between transparency and quality, and that it also committed us to involving complainants in the improvement of our services.
- 3.33 Elisabeth Davies said that she was concerned that the scope of Strategic Objective 3 might expand. She was particularly concerned that in the absence of an existing regional infrastructure there would need to be clear limits on the extent of our engagement. Amanda Campbell said that our plans were scalable. We had already joined up with colleagues across the

health and social care sectors and were sharing our expertise. However we were conscious that this could not be an open-ended commitment.

3.34 Having reviewed the draft Business Plan, the Board:

- **noted** the draft Business Plan and the proposed activities to deliver year 2 of the Corporate Strategy.
- **confirmed** that they were assured that the Business Plan was deliverable, taking into account the phasing of activities and the highlighted risks and mitigations.
- **noted** the next steps for the approval of the Business Plan at the March Board meeting.

#### 4. ICT and Digital Strategy and Roadmap

4.1 A paper by Richard O’Connell, Director of Resources, had been distributed to the Board. Richard O’Connell presented the paper and led the Board discussion.

4.2 Richard O’Connell drew the Board’s attention to the issues and risks set out in the strategy paper. The strategy presented numerous challenges. The biggest of these was funding. Without sufficient funding, the strategy could not be delivered.

4.3 Rob Behrens said that we needed to be sure that we have sufficient in-house capacity to meet these challenges, and had to convince the Board that we had the skills needed to deliver. Richard O’Connell said that we were recruiting to key roles that had previously been outsourced, and had the beginnings of a good in-house team. During the design and implementation stage we would draw on consultancy support. We would also inherit some helpdesk staff from Capita.

4.4 Ram Gidoomal said that he would like to see more information about the changes proposed by the strategy, the costs involved and the expected savings. He believed that this was an area where the Board should look more closely. He asked what information HM Treasury would need to be persuaded to fund the project.

4.5 Alan Graham said that he agreed with Ram Gidoomal’s point (4.4), saying that whilst the Board had been given an overview, there was insufficient detail. He asked how much of the plan had already been approved on the strength of the previous business case to the Board. Gill Kilpatrick said that the Capita exit had been approved previously by the Board and was now being implemented. The CMS replacement project had been discussed by ET, who may need to return to it. The Board will need to approve the business case.



- 4.6 Gill Kilpatrick said that she wished to provide assurance to the Board about our capacity to deliver. We had carried out a skills gap assessment 12 months ago which had identified the need for a significant resource input, arising from the fact that, whilst Capita supported our ICT infrastructure, they were not involved in the delivery of ICT improvements. This was the gap we were recruiting to.
- 4.7 Alan Graham asked where the hardware would be situated following the Capita exit. Richard O’Connell said that, whilst the servers were currently housed by Capita, it was proposed to move them to our premises in Manchester and London. However we were also discussing with Microsoft the possibility of storing our data in the Cloud. Alan asked whether there was a business continuity plan. Richard O’Connell confirmed that there was. He added that in Q3 we would be taking on some skilled staff from Capita. Alan Graham asked whether this had cost implications under TUPE<sup>1</sup>. Gill Kilpatrick said that it did and confirmed that HR were in discussion with Capita.
- 4.8 Ruth Sawtell asked whether contingency plans were in place in the event of project time or cost overruns or other implementation failures. Richard O’Connell said that, for the CMS project we were still in the discovery phase and the approach and scope would be dependent on whether additional funding was received from HM Treasury. Amanda Campbell said that we would carry prepare detailed plans for each possible scenario, which would be shared with the Board. Alex Allan said that it would be helpful for the Board to have a more detailed session with Richard O’Connell.
- 4.9 Alex Allan said that he was concerned that the risks had not been fully articulated and asked whether there was ARAC oversight. Alan Graham said that where oversight of a project lay with the main Board, it would not also come to ARAC. However it would be open to ARAC to commission a deep dive of the project, which other Board members could attend.
- 4.10 Alex Allan asked whether the Board could be given oversight on the project at each meeting. Gill Kilpatrick said that project updates would be provided at each quarterly Board meeting. Ruth Sawtell asked whether this could be a separate standing item.
- 4.11 Elisabeth Davies asked how the challenging timescale for CMS replacement could be reconciled with the open-ended timescale for convergence. Amanda Campbell said that the CMS replacement would use a standard version of Microsoft Dynamics, with little customisation. It was not intended to hard-code the CMS to tie us into particular ways of operating. Gill Kilpatrick said that there were opportunities going forward to work jointly with LGSCO.

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<sup>1</sup> The Transfer of Undertakings (Protection of Employment) Regulations

- 4.12 Rob Behrens said that the Board's scepticism about the absence of detail was understandable. He asked whether the project had the Board's high level support. This was **agreed**.
- 4.13 Rob Behrens proposed the following future actions in order to meet the Board's concerns about the absence of detail.
- ICT & Digital Strategy Updates would be provided, as a separate item, to each quarterly Board Meeting, until the project was concluded;
  - The Board will be provided with supplementary evidence to support the Strategy, including scenario plans;
  - The Business Plan will be amended to support the Strategy;
  - Richard O'Connell will provide a briefing on the Strategy to non-executive and executive Board members.

These proposals were **agreed**.

**Action: Richard O'Connell to provide ICT and Digital Strategy Updates to quarterly Board Meetings from March 2019 onwards;**

**Action: Richard O'Connell to provide supplementary information, including scenario plans, to future Board members.**

**Action: PHSO Business Plan to be amended to support the ICT and Digital Strategy**

**Action: Richard O'Connell to provide a briefing on the ICT and Digital Strategy to non-executive and executive Board members.**

## **5. Public Administration and Constitutional Affairs Committee (PACAC) Update**

- 5.1 Warren Seddon provided the Committee with a verbal update on the two PACAC hearings on 8 January and 22 January 2019. He said that in his opinion the hearings had gone very well and the Committee had taken confidence from the evidence provided both by the Ombudsman and Chief Executive, and by Peter Tyndall and his colleagues. Amanda Campbell agreed that the session had gone well. She said that we had been far better prepared this year. The environment for the hearings had been far better. In her view the Committee believed we were heading in the right direction.
- 5.2 Alan Graham agreed that the organisation had presented itself very well to the Committee. Alex Allan congratulated Rob Behrens and Amanda Campbell on how well they had performed in said that there had been a good balance between them in dealing with questions. Elisabeth Davies agreed that they had come across as very authentic.

- 5.3 Abigail Howarth said that the staff perception of the hearings had been very positive. In particular staff had noted the recognition of their efforts in the presentation to PACAC.
- 5.4 Ram Gidoomal asked what learning had taken from the hearings. Rob Behrens said that there had been real advantage in being able to demonstrate our links with the international Ombuds community.
- 5.5 Alan Graham asked whether PACAC could support us in our dealings with HM Treasury. Rob Behrens said that the Committee Chair had previously offered his support, and that we could also call on the support of the Clerk of the House of Commons.

## **6. Any Other Business**

- 6.1 Amanda Campbell said that Elisabeth Davies had been shortlisted in the annual Non-Executive Director awards, which will take place in London on the evening of 27 March 2019, which was the date of our next Board meeting, which was in Manchester. Amanda Campbell proposed that rather than change the location of the meeting, it should start earlier and be shortened, to allow those who wished to attend the award evening to return to London. This was agreed.
- 6.2 Ram Gidoomal said that he could not attend the meeting in person but that he may be able to attend via Skype if this could be arranged.

**Action: Governance to explore the feasibility of attendance by Skype and to discuss further with the Chair.**

## **7. Review of Meeting**

- 7.1 Members and attendees noted that the sound quality in the new Boardroom was not good, mainly due to noise from the heating and air conditioning system.
- 7.2 Gil Kilpatrick said that the Board challenge had been very effective. Richard O'Connell agreed and said that the points raised in challenge by the Board were extremely useful.
- 7.3 Elisabeth Davies said that the Board process had worked very well, resulting in a good quality of discussion. She said that she had also appreciated the call from Gill Kilpatrick to each of the Committee Chairs the previous day, which had been very helpful.

**The meeting ended at 13:30**

