

Approved Minutes of the Board Open Session meeting held on 14 December 2022 via Microsoft Teams

Chair:

Rob Behrens CBE, Ombudsman

Non-Executive members:

Sir Alex Allan KCB

Anne Davies

Linda Farrant

Dean Fathers

Balram Gidoomal CBE)

Mick King

Anu Singh

Amerdeep Somal

Executive Members:

Amanda Amroliwala CBE, Chief Executive

Gill Kilpatrick, Chief Operating Officer

Apologies

Polly Curtis

Hazel Waddington, Assistant Director of Transformation

In attendance:

Karl Banister, Director of Legal, Data and Clinical

Rebecca Bishop (Interim Director, Human Resources)

Peter Fish, Expert Advisory Panel Chair (item 12)

Rebecca Hilsenrath, Director of Strategy and Communications

Abi Howarth, Director of Operations and Quality

Maria Mansfeld, Chief of Staff

Andrew Dawson, Governance Officer (minutes)

Rachael Russell, Assistant Director of Intake & Resolutions (item 11)

Observers

Faridah Newman, Executive and Committee Officer

Rachael Russell, Assistant Director of Intake & Resolutions

5. Chair's Introduction and Welcome

- 5.1 The Chair welcomed members, attendees and observers to the meeting.
- 5.2 The Chair informed the Board that it was Abi Howarth's last Board meeting as she would shortly be leaving PHSO to take up a senior post elsewhere. Members thanked Abi for her contribution to the Board and her work for PHSO.

6. Declarations of Interest

- 6.1 There were no declarations of interest relevant to matters on the agenda.
- 6.2 Dean Fathers informed the Board that the Academy of Healthcare Sciences had invited him to chair their Life Sciences Industry Steering Group.

7. Minutes and Matters Arising

- 7.1 The minutes of the open session 28 September 2022 were approved as a true and accurate record.

Action points from 28 September

- 7.2 (11.5) Karl Banister gave a verbal response on work planned and underway to develop the data collection elements of the Casework Programme and to recruit suitably skilled staff. Timescales for this work will be developed in due course.
- 7.3 (15.3) Maria Mansfeld gave a verbal response following discussion with the Ombudsman. A wide range of opportunities existed for Board members to meet with staff and further opportunities would be identified, developed and shared with the Board.

Senior non-executive Director to the Chair

8. Chief Executive's Report to the Board

- 8.1 The Board received a report from the Chief Executive (CEO).
- 8.2 The CEO thanked Abi Howarth for her contribution to the organisation.
- 8.3 Members congratulated the Chief Executive and the Ombudsman on their appearance before the Public Administration and Constitutional Affairs Committee (PACAC).
- 8.4 Members discussed the significant improvement in the number of cases awaiting allocation, this had been achieved during a period of rising demand. Members discussed the actions taken to increase productivity.
- 8.5 Members discussed the organisation's links with the Care Quality Commission (CQC), particularly in the context of CQC's recent report into mistreatment of patients at an NHS Trust. The CEO confirmed that she had discussed this with the CQC's Chief Executive.
- 8.6 The Board **noted** the report.

9. Ombudsman's report.

- 9.1 The Board received a report from the Ombudsman.
- 9.2 The senior non-executive Board member asked to record in the minutes the Board's appreciation of the Ombudsman's recent efforts in Ukraine on behalf of the international Ombudsman community.
- 9.3 The Ombudsman gave a brief account of his recent visit to Ukraine. He said that, following the visit, he had two aims:
- To establish a formal relationship with the Ukrainian Parliament Commissioner for Human Rights
 - To raise some money via a charitable fund to provide the office of the Ukrainian Parliament Commissioner for Human Rights with essential equipment, e.g., a portable generator.
- 9.4 The Ombudsman expressed his thanks to Board members and staff who had participated in the recent peer review exercise. The peer review had been a success and in particular had endorsed the organisation's approach in areas including the Academy, quality, complaints against PHSO, learning and development, finance and operations.
- 9.5 Members congratulated the Ombudsman on the outcome of the peer review.
- 9.6 The Ombudsman provided brief details of developments since the Public Administration and Constitutional Affairs Committee (PACAC) hearing on 29 November, including correspondence with the Chair following the unfortunate disclosure by a PACAC member of our provisional view on remedy in the State Pensions investigation.
- 9.7 Members discussed the PACAC hearing and subsequent developments. They suggested that a Board session on financial remedy would be very useful.

Action: Governance/Improvement Team to organise an information session/seminar for the Board on Financial Remedy

- 9.8 Members expressed their appreciation of the All Staff Event on 6 December, and thanked staff involved in organising and delivering the event. They noted the intention to hold a similar event in 2023-24.
- 9.9 The Board **noted** the report.
- ## **10. Transformation Report**
- 10.1 The Transformation Report was presented by the Chief Operating Officer (COO) in the absence of the Assistant Director of Transformation.
- 10.2 Members commented that the business plan for 2022/23 was not fully reflective of the outputs from the Transformation Programme. It was confirmed that it was intended to carry out a comprehensive mapping exercise for benefits and metrics from the Transformation Portfolio in the near future. These will be aligned with key performance indicators in the 2023/24 business plan.

10.3 Members welcomed the opportunity to provide input on the proposed arrangements for a user feedback group and looked forward to providing input into other initiatives in the future.

10.4 Members raised the following further matters in discussion:

- Whether it would be helpful to look at the Board committee structure and how that interacted with the Transformation Portfolio. It was noted that this was an area requiring further reflection.
- The need to draw out the equality, diversity and inclusion (EDI) aspects of the Portfolio. It was confirmed that the EDI action plan will be aligned with the Portfolio.

10.5 The Board **noted** the report.

11. Demand Management

11.1 The Board received a report from the Assistant Director of Intake and Resolution (AD I&R).

11.2 Members raised the following points in discussion:

- The number of cases with level 1 or 2 injustice which were treated as case exceptions. Members noted that around one case a month fell into this category, usually where the injustice was borderline level 2-3.
- It was appropriate that other factors, such as public interest and systemic themes, should also be taken into account when deciding on case exceptions.
- Whether the organisation is working with the health sector to project demand. Members noted that this is one of the objectives of the Casework Programme.
- Whether sites using the Complaints Standards were submitting fewer complaints. Members noted that the number of level 1-2 cases had reduced generally; the reduction was not limited to Complaints Standards sites.

11.3 The Board **agreed** that the current Demand Management approach should continue on an ongoing basis.

Ombudsman to the Chair

12. Update from the Chair of the Expert Advisory Panel

12.1 The Board received a verbal update from the Chair of the Expert Advisory Panel (EAP).

12.2 The EAP Chair give a brief account of the history of the EAP, its membership and its activities. He asked Board members to think about the future role of the EAP and how it could add value to our casework processes.

12.3 The EAP Chair highlighted the current barriers to the effective functioning of EAP:

- It was difficult for the EAP to meet as a group; this had happened twice in 8 months.
- EAP's role remained uncertain. They had been used mainly on a call-off basis for one-off difficult cases.
- The relationship between EAP, the Board and the wider organisation was not yet developed.
- EAP's understanding of the organisation was limited.
- Historically there had been some resistance within the wider organisation to the use of external experts.

12.4 The Chair said that he wishes to develop EAP's role further. Following a recent meeting with the Ombudsman and Executive Team, the focus was on EAP handling difficult, complex or high-risk cases requiring sensitive handling or external support. EAP were also keen to contribute more widely and to help shape the organisation's casework approach.

12.5 The Director of Legal, Data and Clinical gave a brief account of a recent meeting between the Legal team, caseworkers and EAP members on the subject of alternative legal remedy, where EAP members had provided an important external perspective.

12.6 The Ombudsman invited members to contact him directly with any thoughts or suggestions about how the organisation could obtain best value from the EAP.

12.7 The Board **noted** the update.

13. Diversity Steering Group Update

13.1 Anu Singh reported that the Diversity Steering Group (DSG) had not met since the September Board meeting.

13.2 Anu Singh informed the Board that a contract had been awarded to deliver training for staff to become coaches, to expand the population and diversity of our Coaching Community of Practice. Ten places are available this year and in each of the next two business years.

13.3 Members discussed diversity within the senior leadership team and acknowledged that this was a challenging area.

13.4 Members commented that there had been lots of positive comments about the work of the DSG at the all staff event.

13.5 The Board **noted** the update.

14. Quality Committee Strategic Update

14.1 Dean Fathers provided a strategic update from the Quality Committee meeting on 17 November 2022, and highlighted the following:

- Quality performance had remained robust during 2022-23 Q2.
- The Committee had broadened the source data they considered and were moving towards a more longitudinal approach to scrutiny.
- The Committee had received a presentation from the interim Chief Investigator at the Healthcare Safety Investigation Branch.
- There were no matters for escalation to the Board.

14.2 Dean Fathers thanked Abi Howarth for her contribution to the work of the Quality Committee.

14.3 The Board **noted** the update.

15. Audit & Risk Assurance Committee Strategic Update

15.1 Linda Farrant provided a strategic update from the Committee meeting on 11 November 2022, and highlighted the following matters:

- The Committee had discussed the growing underspend and the need to ensure plans were in place to maximise the use of allocated resources.
- The Committee had received an Assurance Review on Recruitment and Resourcing.
- The Committee had received assurances from the National Audit Office and the organisation that plans were in place to deal with the annual audit of accounts, which was taking place significantly earlier than in previous years.
- The Committee had given robust consideration and challenge to the Strategic Risk Register.
- There were no matters requiring escalation to the Board.

15.2 The Board noted the update.

16. Review of Governance Framework

16.1 The Board considered a report proposing a number of minor changes to the Governance Framework to ensure consistency and to reflect the current organisation and governance practices.

16.2 Members identified the following as requiring further amendment:

- following changes to the Terms of Reference for Board committees, these were now not consistent with the provisions in the Board Standing Orders relating to the term of office of Committee Chairs (Section 2.10), which will need to be amended.

- Section 2.15.6.1 referred to the Senior Independent Director; this should read Senior Independent member.

Action: Section 2.10 to be amended to ensure consistency with Terms of Reference of Board Committees; Section 2.15.6.1 to be amended to read *Senior Independent Member*.

16.3 Subject to the amendments at 16.2 above, the Board **approved** the revised Governance Framework.

17. The Ombudsman's Annual Report and Accounts - lessons learned from 2021-22 and timeline for 2022-23

17.1 The Board received a paper highlighting two significant changes over previous years in the process of preparing the annual report and accounts:

- The National Audit Office (NAO) had brought the annual audit of accounts forward by 5 weeks, to mid-April.
- Under new auditing standards, NAO's considerations will include performance and processes.

17.2 The Ombudsman commented that the annual performance report would need to reflect the recommendations of the Peer Review.

17.3 Members suggested that the organisation could approach NAO, or look at reports of similar organisations, to identify examples of good practice in annual report content and layout.

17.4 The Board **noted** the paper and the proposed timeline for the 2022-23 Annual Report and Accounts.

18. Strategic Risk Report

18.1 The Chief Operating Officer presented the Strategic Risk Report and Register for 2022-23 Q2.

18.2 The Board

- **agreed** the current strategic risks;
- noted the actions being taken in mitigation;
- **noted** the current strategic issues being managed.

19. Operations and Corporate Health Performance Report

19.1 The Director of Operations presented the Operations Performance Report. She reported a generally improving picture, and highlighted the following:

- Increasing demand: incoming complaints were 26% above pre-covid levels, cases requiring investigation were 6% (YTD) above forecast levels.
- Monthly output had increased significantly between April and October;
- Cases awaiting allocation had reduced from 2264 in July to 1622 in October;

- Waiting times for allocation had also reduced significantly.
- Casework quality was showing sustained improvement. The target for cases with the correct decision had been exceeded each month this year.

19.2 Members asked about the age profile of the 'Aged cases' - how old were our oldest cases and what was the reason for that.

Action: Director of Operations to provide details of any cases older than 3 years, including current position and reason for delay

19.3 Members welcomed the improvement in waiting times before complaints were allocated to a caseworker; however these were still longer than was desirable. Members noted that they looked forward to allocations returning to frictional levels.

19.4 Members noted that the sustained improvement in casework quality had been achieved during a period when productivity was increasing even though a significant number of new staff had been deployed. This was a remarkable performance.

19.5 The Board **noted** the report.

19.6 The Chief Operating Officer presented the Corporate Health Performance Report. She highlighted the following:

- Sickness absence was continuing to improve;
- Staff turnover had increased slightly;
- Performance targets for Information Rights requests were now being achieved.
- Recruitment of ethnic minority candidates had improved.

19.7 Members welcomed the increase in ethnic minority recruitment, noting that diversity in leadership roles remained a challenge.

Action: Assistant Director of HR to provide members with details of Recruitment by ethnicity), broken down by grade.

19.8 The Board **noted** the report.

20. Business Plan and Equality Action Plan Update

20.1 The Chief Operating Officer presented the update.

20.2 Members discussed the Data Strategy and ICT Strategy. It was confirmed that the deliverables for the Data Strategy are on track for completion in 2022/23. The ICT strategy is due to be refreshed in 2023/24.

20.3 The Board **noted** the report.

21. Financial Position

- 21.1 The Interim Director of Human Resources presented the report setting out the current financial position. Following the Autumn Statement, HM Treasury had confirmed that there were no changes to the settlement.
- 21.2 Members discussed the forecast underspend, on both Capital and Resources. It was noted that the forecast underspend for resources had risen by £200k since November. The Chief Executive outlined a number of areas of expenditure which was planned before the end of the financial year.
- 21.3 The Board **noted** the report and the current financial position.

The meeting ended at 15:15