

Approved Minutes of the Board Open Session meeting held on 19 March 2020 (Telephone conference)

Chair:

Rob Behrens CBE, the Ombudsman

Non-Executive members:

Sir Alex Allan KCB

Elisabeth Davies

Linda Farrant

Dean Fathers

Balram Gidoomal CBE

Alan Graham MBE

Ruth Sawtell

Apologies

Mick King

Dr Julia Tabreham

Richard O'Connell, Director of Resources

Warren Seddon, Director of Strategy and Communications

Executive Members:

Amanda Amroliwala CBE, Chief Executive

Alex Robertson, Executive Director of Strategy and Operations

Gill Kilpatrick, Executive Director of Corporate Services

In attendance:

Karl Banister, Director of Legal and Professional Services

Andrew Dawson, Governance Officer (minutes)

Abigail Howarth, Director of Operations and Quality

Maria Mansfeld, Chief of Staff

Faridah Newman, Governance Officer (minutes)

1. Chair's Introduction and Welcome

- 1.1 Rob Behrens introduced the meeting, welcoming Linda Farrant to her first Board meeting.
- 1.2 Rob Behrens confirmed that due to the meeting being a teleconference (as a result of the impact of COVID-19), items on part 1 of the agenda would be discussed at the meeting and items on part 2 would be dealt with by correspondence.

2. Declarations of Interest

- 2.1 There were no declarations of interest.

3. COVID-19 Update

- 3.1 Amanda Amroliwala explained the measures either in place or being taken to ensure that the organisation could continue to function.
 - An emergency management team (EMT) has been set up and is currently meeting daily.
 - Capacity for staff to work from home had been increased from 20% a few weeks ago to 77% currently. This number will increase significantly over the next week. Eventually all staff will be able to work from home apart from a small number where this is not possible for technological, accessibility or other reasons.
 - Daily messages are being sent out to staff, including current Government guidance, policy decisions, update on the technology rollout, and general support.
 - Staff wellbeing is central to our response to the pandemic. Flexible working hours have been relaxed and special leave is being allowed where required.
 - Managers have been issued with guidance on how to manage remote working. All staff have been issued with guidance on home working.
- 3.2 Amanda Amroliwala acknowledged the positive way all staff in the organisation had responded. In particular she wished to thank Cat Farrow (communications), James Hand, (business continuity), Stuart Ogden (Accommodation and ICT) and Angharad Jackson (information assurance).
- 3.3 The Board raised the following issues in discussion:

- What would be the overall impact on NHS complaint numbers? *It is anticipated these will rise, and that we might see a significant number of systemic complaints.*
- What would be the financial impact on the organisation? *There was an immediate cost of the provision of ICT equipment so that staff can work remotely, met from within the existing capital budget. However, there were also savings, for example on travel and hotels. All expenditure incurred in response to the pandemic is being tracked.*
- Were management empowered to amend policies at short notice where these were inconsistent with current official advice or were otherwise not appropriate for the current situation? *Our HR lead has been nominated to deal with all policy queries. A decision log had been set up which includes our response on a daily basis. Decisions to adjust policies would be made through the EMT and recorded.*

3.4 Amanda Amroliwala highlighted to the Board the wider impact on our service delivery, which was affected by the capacity of the NHS and Government organisations to deal with complaints.

- Some NHS Trusts were saying that they could not service complaints or provide responses as capacity was directed to the COVID-19 response.
- The Care Quality Commission had ceased inspections.
- Government organisations were also indicating that their ability to respond to complaints was limited.

3.5 The Executive Team had considered the options in these exceptional circumstances. For Health service complaints, these were:

- A proactive approach, where we pause all current health investigations and stop intake for new complaints where these would require engagement with the NHS.
- A case-by-case approach depending on the complaint and the Trust's circumstances.

Option (i) was the recommended option. If approved, we would identify other work that staff could do.

3.6 For Parliamentary complaints, the organisations involved were not under the same pressure as the NHS and we should continue to investigate complaints.

3.7 Board members raised the following points in discussion:

- Option (i) was difficult but reflected the considerable pressures faced by the NHS.
- It was possible that we would see an increased number of Parliamentary complaints against organisations charged with providing care and support other than health provision. This was noted.

- Suspension of activity on health complaints could lead to the accumulation of a significant backlog of casework. This was noted.
- Concerns that increased remote working compromise system security. No data was stored on remote working devices, and there were several layers of protective security around our devices.
- What would happen to proposed recruitment? People who had been given offers of employment would join as planned with virtual on-boarding being developed.

3.8 The Board **agreed** that activity on health complaints, and the intake of new complaints, should be paused during the current crisis. Activity on Parliamentary complaints should continue but be kept under review.

3.9 The Board **noted** the update.

4. Complaints Standard Framework Consultation

4.1 Alex Robertson presented the report. He said that, following discussion at the joint Board/Senior Leadership Team awayday, the framework proposals had been developed further in discussion with a range of organisations and with a focus group. We were now ready to begin formal consultation on the Complaints Standard Framework (CSF).

4.2 It had been proposed to commence the consultation simultaneously with the publication of our Insight report. However, with the onset of the COVID-19 pandemic, it would not be appropriate to publish the Insight report in the absence of NHS engagement. It was recommended to defer the consultation.

4.3 Board members raised the following points in discussion

- Would it be feasible to share the cost of training provision for complaint handlers?
- Was it intended to present the Complaint Standards Framework as PHSO's own brand or as a joint brand?
- Do we want the statutory power to be the Complaints Handling Authority, and do we want that power?

4.4 In response, the Ombudsman said that the Complaints Standard Framework was a collaborative effort by various organisations, but with PHSO taking the leading, coordinating, role. We could deliver the CSF without any change to legislation, but we would be seeking the regulatory power to be the Complaints Handling Authority in the next round of Ombudsman reform. It was not intended, after the pilot, that we would cover the training costs of other bodies.

4.5 The Board **noted** the update and **agreed** the proposal to defer the commencement of the consultation.

5. Developing the 2021-24 Corporate Strategy

- 5.1 Alex Robertson presented the paper to the Board. He highlighted that the strategic objectives at Annex A had been drafted following consultation with the Board at the Board/Senior Leadership Team awayday.
- 5.2 It had been intended to consult on the strategy and obtain stakeholder input in April. However, in response to the COVID-19 situation, the Comprehensive Spending Review (CSR) timetable had been delayed and in addition in current circumstances
- 5.3 there was no prospect of getting meaningful feedback on our draft strategy. It was therefore not feasible to go forward as proposed.
- 5.4 Board members provided feedback on the draft strategy:
- The ordering of the of the objectives gave a misleading impression, for example under strategic objective 2, reducing office space was listed before improving casework quality.
 - In places the Ombudsman was referred to as an individual; in others, as a service.
 - Ombudsmen was not the plural of Ombudsman.
- 5.5 **Action:** Board feedback to be incorporated in next draft of the strategy.

6. 2019 Staff Survey

- 6.1 Alex Robertson presented the report. He informed the Board that the feedback on the Staff Survey had been shared with the Executive and Senior Leadership Teams. Conversations were now starting with staff.
- 6.2 Board members raised the following issues in discussion:
- How did the executive plan to communicate with staff in the current situation? *A range of structured communication methods would be used, including 'town hall' meetings to focus on key messages, regular meetings between managers and staff, webinars, and 'virtual coffee breaks.*
 - It was difficult to reconcile the low scores on learning and development with recent investment. *Staff's main concern was around career development and opportunities for promotion, and may have been exacerbated by issues raised during the pay and grading dispute. Opportunities were opened following the dispute. However, we need to be clear with staff that, given our relatively flat structure, these opportunities may be limited and ensure that career development conversations are broadened. We are ensuring staff have access to a broader set of promotion opportunities, through showcasing promotion opportunities in the Civil Service and with other Ombuds schemes.*

- There was still a worrying (if reduced) score in respect of bullying; had the trend been analysed and had enough been done to address this? *We have analysed trends in respect of the reported sources of bullying, and have implemented a range of activities to address these, internally and externally.*
- Does the persistence of experience of bullying/harassment hide underlying issues of sexual harassment which staff are unwilling to report by other means? *There is no indication that this is the case. We are confident that our Freedom to Speak up Guardian would be used by staff to express any such concerns.*

6.3 The Board **noted** the report.

7. Risk Appetite and Tolerances

7.1 Gill Kilpatrick presented the report highlighting that the paper had been drafted before the severity of the current crisis had become apparent. The Executive Team had since considered further but had concluded that, despite the COVID-19 situation, our risk appetite should remain unchanged from 2019/20.

7.2 Board members raised the following points in discussion:

- Why the risk tolerances were expressed in terms of absolute numbers rather than percentages. *Casework tolerance is in total numbers as it relates to maintaining a queue of work that will be allocated in up to four weeks.*
- How the tolerance levels were arrived at. *The tolerances were based on previous levels and where appropriate e.g. in relation to unallocated cases, increased to reflect higher volumes of incoming cases each week due to the increase in demand during the year. This level had been sustained but was not expected to increase further. However, this would be kept under review and adjusted as appropriate.*
- It was important to be clear about what should happen when tolerances were exceeded. *Action taken to bring back within tolerance forms part of the quarterly reporting to the Board.*

7.3 The Board **approved** the overall risk appetite statement ‘cautious’ and the risk appetites for each strategic objective as set out in paragraph 1.2 of the paper.

7.4 The Board **approved** the revised risk metrics and tolerance levels set out in Appendix 2, whilst recognising that these would need to be kept under review.

8. Business Plan and Budget 2020/21

8.1 Gill Kilpatrick presented the Business Plan and Budget for 2020/21 to the Board. She confirmed that the Business Plan had been amended to take account of the Board’s input into the draft plan at the meeting on 30 January 2020, with the key priority being improving the quality of our casework. The Budget was aligned to the delivery of the Business Plan. Key to the development of the

Business Plan was the capacity available within the organisation, from both a leadership perspective and the ability of the organisation to absorb change. The plan also incorporated the lessons learned from key transformation projects in 2019/20. As a result, a number of activities were recommended to be deferred into 2021/22, set out in Annex B.

8.2 Gill Kilpatrick said that we now needed to consider how COVID-19 would impact on our ability to deliver the Business Plan and what changes would need to be made.

8.3 Board members raised the following issues on the Business Plan

- How were the systemic reports we produce covered in the Business Plan? *We consider this to be part of our core function rather than change work and they are therefore not included. This is reported quarterly to the Board.*

8.4 Board members raised the following issues on the Budget:

- Was it safe to reduce the reserve for contingencies and is £100k enough?
- *The Budget contained several items which could be rolled back if required. It was also open to us to approach HM Treasury if need arose, but we will need to recalibrate the budget once the impact of COVID-19 is known.*
- Were we tracking expenditure arising from the COVID-19 situation? *All such expenditure is being tracked.*

8.5 The Board discussed whether additional powers should be delegated to the Executive Team to change the business plan based on the developing situation. Gill Kilpatrick reported that any such changes would be reported back to the Board through our regular reporting processes.

8.6 Amanda Amroliwala explained that we would publish a summary of the Business Plan rather than the full detail.

8.7 The Board **approved** the Business Plan and Budget for 2020/21. The Board also **agreed** to delegate to the Executive Team the power to make amendments to the Business Plan and Budget in response to the COVID-19 situation, subject to any changes being reported to the Board.

9. Equality, Diversity and Inclusion Strategy 2020-2024

9.1 Gill Kilpatrick presented the proposed Equality, Diversity and Inclusion (ED&I) Strategy to the Board, highlighting the significant level of engagement to develop the strategy. The proposed strategy was supported by the Diversity Steering Group.

9.2 Board members raised the following issues in discussion.

- The strategy should require us to be representative (demographically) of the communities we serve. *Agreed. This will be made more explicit.*
- The need to ensure diversity through the organisations grade structure. *The organisation was very gender-diverse through the grades. However, BAME staff were under-represented at higher grades. This was an issue for the organisation, and we had introduced a 30% BAME recruitment target. This was challenging but was reflective of the local populations in London and Manchester.*

9.3 The Board **approved** the ED&I strategy for 2020-2024 (subject to the amendment at 9.2 above).

10. Any Other Business

10.1 Rob Behrens noted that it was Ruth Sawtell's final PHSO Board meeting. He thanked Ruth for her work for the organisation and the significant contribution she had made as Board member, ARAC member and RemCom Chair.