



## PHSO BOARD OPEN SESSION MEETING

23 May 2017

Minutes

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

**23 May 2017**

### **CHAIR:**

Rob Behrens CBE, the Ombudsman

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

Elisabeth Davies  
Alan Graham MBE  
Mick King  
Ruth Sawtell  
Sir Jon Shortridge KCB  
Dr Julia Tabreham  
Helen Walley

### **EXECUTIVE MEMBERS:**

Amanda Campbell CBE, Chief Executive  
Gill Kilpatrick, Executive Director of Finance and Corporate Services  
Alex Robertson, Executive Director of External Affairs and Insight

### **APOLOGIES:**

Rebecca Marsh, Executive Director of Operations and Investigations  
Sarah Wilde, HR Director

### **IN ATTENDANCE:**

Adam Hawksbee, Chief of Staff  
Helen Holmes, Legal Director  
Allison Howe, Interim Director of Governance  
Patrick Makoni, Board and Committee Clerk (minutes)  
Linda Tomlinson, Liaison Manager (for item 14 only)  
Adrian Tudway, Interim Director, Quality

### **OBSERVERS**

Kiran Bhurlay  
Nora Hussein  
Bernadette Murray  
Fiachra Pilkington  
Warren Seddon

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

5.1 The members present were welcomed by the Chair.

## **6. Declarations of Interest**

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

## 7. Minutes and Matters Arising

### Meeting held on 31 January 2017

- 7.1 The minutes of the meeting held on 31 January 2017 were **approved** subject to the following amendments:

#### Minute 4: Chair's Report to the Board

*4.3 Rob Behrens, who was the Independent Adjudicator for Higher Education had been appointed and would formally take up the post on 1 April 2017.*

While this was based on information believed to be correct at the time, it was agreed the paragraph would be reworded: "Rob Behrens, who was the Independent Adjudicator for Higher Education had been appointed and would formally take up the post on **6 April 2017**".

#### Minute 6: Overview of Corporate Performance Quarter 3 Board Commentary

This section was subject to grammatical errors and needed reformatting.

### Matters Arising from 31 January 2017

- 7.2 An update was requested on the delivery of the Annual Report and Accounts. Members **noted** that the full draft of the 2016/17 Annual Report and Accounts had been reviewed by the Audit and Risk Assurance Committee (ARAC) who had made changes prior to the Board's input. The report would go to the National Audit Office (NAO) at the end of June and then be endorsed by the Board in order to meet the deadline of laying the Accounts pre-recess.
- 7.3 A member raised a concern that the Board should have sight of the report prior to it coming for sign off. It was **agreed** that the draft be shared so that comments could be made in correspondence prior to submission to the NAO.
- 7.4 The Chair of ARAC reminded members that there would be a technical walk through of the Accounts, which were now complete, on 14 June 2017. All Non-Executives were welcome to attend and provide input into the Governance Statement narrative.
- 7.5 Feedback from the new website launch, (minute 8) had been positive. The next stage was the development of online forms for capturing data at Intake. A member put it on record that they had received positive comments about the website.
- 7.6 An update was also requested on the arrangements for approval of the Governance Framework. The Interim Director of Governance advised that the framework would be circulated imminently and would be put on the Board's Forward Programme for an annual review.

**ACTION:** The Interim Director of Governance would ensure that a draft of the Annual Report and Accounts including the Governance Statement would be reviewed by the Board before the Audit and Risk Assurance Committee prior to the sign-off meeting.

**ACTION:** The Interim Director of Governance to circulate the Governance Framework and include on the Board Forward Programme for an annual review.

#### **Meeting held on 9 March 2017**

7.7 The Minutes of the meeting held on 9 March 2017 were **approved**.

7.8 An update was requested on Minute 2.7 on when the Board would expect to discuss PHSO's risk appetite. The Board was informed that it would be on the agenda for the September 2017 meeting.

**ACTION:** The Secretariat to add to the forward programme PHSO's risk appetite.

#### **Matters Arising Table - Outstanding Items**

7.9 A table of the outstanding matters had been received by the Board. Clarification was sought on item 6.2 relating to the integration of LGO and PHSO Human Resources System which had been closed and shown as "Project on hold for 2016/17" and item 3.2 for the submission of a business case for an HR stand-alone system. The Board was informed that the project to integrate systems had been rescheduled to 2017/18 and had been factored in as part of the budget that had come to the Board in March 2017. A decision had been taken to recruit a Project Manager to lead the process and embed proper project management processes within the organisation. The Business case would be presented to the Board once a Project Manager had been appointed. The Board expressed its support for the initiative.

7.10 It was requested that future Matters Arising Tables have deadline dates for Actions.

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

8.1 The Chief Executive Officer's (CEO) report had been circulated to the Board.

8.2 The CEO would focus on two main aspects:

- a) 2016/17 Performance
- b) Transformation Activity

## **2016/17 Performance**

- 8.3 PHSO was in a better position and results had been impressive, given the challenges faced during the previous financial year in addition to queues and the amount of time it had taken to reduce them. Staff were commended for their hard work in producing strong results.
- 8.4 However, there was a need to recognise that the organisation was still in challenging times. Individual consultations would be starting as part of the reshaping exercise. This would entail a significant amount of activity with both management and staff time being compromised. There was the likelihood of an impact on Q1 performance figures.

## **Transformation Activity**

- 8.5 Collective consultation had finished on 12 May 2017. A Transformation Board was meeting weekly and detailed work was being carried out to consider feedback that included home working and specialisms. A communications update was planned for 13 June to take staff through the changes. The individual consultation would commence on 15 June. There was a need to match staff seamlessly into new roles.
- 8.6 The Trade Unions had been actively involved with weekly meetings. Initially, the Unions were not co-operating, however once they did get engaged, they engaged fully. At the current time, they had stopped engaging again, claiming they had not had sight of all the documentation. Management refuted the claim. Salary information had been shared. Lawyers had been consulted and confirmed that all information had been shared.
- 8.7 The transformation project was now following a programme approach. The Executive Director of External Affairs and Insight had taken on extra responsibilities as Transformation and Strategy Director. A Programme Manager would be recruited to ensure that there was more rigour and discipline to the way we work.
- 8.8 The Board had found the weekly staff updates informative.
- 8.9 In response to a question, the CEO informed the Board that there was no live performance data for 2017/18 as yet. At present, weekly performance meetings were being held to review risks that were above or below tolerance levels.
- 8.10 It was noted that the decision to delay the collective consultation would have no impact as it had been budgeted to keep all staff until November 2017. An under spend had been incurred in the previous financial year as the organisation had not been recruiting. Many project Officers would be assimilated into permanent roles.
- 8.11 There was a concern that the transformation programme did not appear in the strategic risk register given the potential impact it could have on

performance. It was **agreed** that this would be incorporated into the risk register.

8.12 It was noted that no legislation on the Public Service Ombudsman was foreseeable in the near future due to the General Election. A meeting with the LGO was planned for July 2017.

8.13 The number of interim appointments was identified as an issue directly related to the reshaping exercise. However, some permanent appointments were being made including the Head of Governance and Director of Legal and Governance, both of whom were taking up post in the next four weeks.

8.14 PHSO had not been affected by the ransomware attack.

8.15 Board members stated they would like detail of the conversations with external stakeholders. Capturing of conversations with external stakeholders was a responsibility that was being gleaned into the Transformation and Strategy Director role. Information was currently being made available in the CEO's Monday updates. However more detail would be included in future CEO reports.

8.16 The CEO gave assurance to the Board that the Trade Union views were not representative of the entire staff body. Most related to London staff where the impact of restructuring was greater but not replicated elsewhere.

8.17 The Board **noted** the CEO's report.

**ACTION: The Chief Executive to include reference to significant matters arising in previous Board meetings for future CEO reports to update the Board on progress.**

**ACTION: The Transformation Programme to be added to the Risk Register.**

## **9. Ombudsman's Report to the Board**

9.1 The Ombudsman's Report had been circulated to the Board. It outlined activities that he had undertaken during his first six weeks as Ombudsman. A schedule of meetings carried out as Chair was attached to the report.

9.2 The Ombudsman had been receiving emails from staff relating to issues of concern which staff believed were being faced by PHSO as an organisation. His advice had been that it was important to "listen" rather than launching new initiatives.

9.3 The Ombudsman had also met external stakeholders to begin building strong relationships with Chairs and Ombudsmen from across the public service landscape. He had attended the Board of the Local Government Ombudsman (LGO) in Coventry in April. A meeting had also been attended with the Chair of the Care Quality Commission (CQC). The CQC had recently undergone a

governance review, and could recommend consultants should PHSO choose to undertake such a review.

- 9.4 Together with the Chief Executive Officer (CEO), a visit had been made to the Northern Ireland Public Service Ombudsman in early May to discuss how the two organisations could work together.
- 9.5 The Ombudsman had undertaken an interesting visit to the Walton Centre NHS Foundation Trust in Liverpool on 16 May 2017. He found their work impressive, evidenced by the good mark they had received from the CQC. However, their Complaints department had asked for assistance in handling complaints.
- 9.6 The Ombudsman had re-engaged with case handling and had attended case handling sessions.
- 9.7 The Board **noted** the Ombudsman's report.

## **PERFORMANCE AND RISK**

### **10. Operational Performance Report 2016/17**

- 10.1 The Operational Performance report had been circulated to the Board.
- 10.2 Figures were pointing to a broadly healthy report and gave confidence to where PHSO was as an organisation. However, Operations were under pressure as a result of the following changes:
  - a) Introduction of Microsoft Dynamics (MSD);
  - b) Implementation of Target Operating Model (TOM) and associated training; and
  - c) Removal of Visual Files.
- 10.3 During implementation of the TOM, there was a concern that performance might drop as a significant amount of time would be taken up by change. However, a close eye was being kept on performance with overtime being used judiciously to avoid a build-up of queues.

There was also a concern about staff going on Voluntary Exit (VE). They carried caseloads which would need to be transferred to other staff which was likely to cause delay.

- 10.4 In response to a question on MSD and the proportion of cases that were being handled by the system (and a change from paper to electronic), the Board was informed that full implementation would be in place by the end of June 2017. The majority of staff had been trained but the plan for implementation was changing as cost effective measures were put in place. The Electronic Post Room was functioning, marking a move from paper to digital.

- 10.5 The 58% target of assessment in 26 weeks had been achieved and should continue to be achieved. However, there were bulges in the system. The 20 day target had been missed by one day. The target was a stretch but it was advisable not to change it. The switching of work from Visual Files to MSD was slowing down work. There would be greater consistency in meeting targets once staff were working from one system.
- 10.6 A tighter grip on operations and the presence of Project Officers who were adapting to new processes had resulted in improved performance. PHSO had also agreed a forward facing recruitment strategy where caseworkers were being employed based on forecast need. This would ensure that the organisation was adequately resourced to meet demand.
- 10.7 The Board was reminded that a decision had been taken not to initiate any new Insight Reports. An Insight and Strategy Board had been implemented. Consideration would be given as to how it would communicate with the Board.

**ACTION: Director of Operations and Head of Governance to agree how the Insight and Strategy Board would communicate with the Board.**

- 10.8 An Annual Open Meeting for complainants and stakeholders would be held in 2017/18.
- 10.9 There had been progress in all complex cases over 12 months but these cases still took time to assimilate and understand each time they were handed to new staff. Efforts were being made to drive down the old cases in Visual Files but there would be a corresponding increase of cases waiting elsewhere in the system.
- 10.10 It was noted that the number of contacts had decreased due to data cleansing.
- 10.11 A new MI reporting package was being built in MSD.
- 10.12 The Board **noted** the update.

## **11. Corporate Health Performance Report**

- 11.1 The Corporate Health Performance Report had been circulated to the Board. It focussed on three distinct areas:
- The end of year position
  - The end of year performance against the business plan
  - The end of year financial position
- 11.2 It was noted that historical data had been added to the report as appropriate. The information would be provided in the new Q1 report.



11.3 The 2016/17 pulse survey had highlighted that work needed to be done around bullying and harassment and learning and development. A Dignity at Work Network had been launched in March 2017 to address concerns around bullying and harassment. There would be significant expansion of the Learning and Development offer to show that PHSO wanted to be a learning organisation. Recognising that learning was an important investment, the current average learning day per employee of 2.4 days would be significantly increased. A full developmental programme for 2017/18 was being put in place for staff.

11.4 In response to a question on the balance between long term/short term sicknesses, the Board was informed that there was lack of management information. However, a deep-dive to probe the issue had been commissioned. There was potential for sickness numbers to go up as PHSO went into the final stages of transformation.

11.5 Concern was raised on the continued bullying and harassment within the organisation. The issue appeared to be directorate based. The Executive was carrying out an in-depth analysis by directorate with the recognition that more work needed to be done around the issue. The Q1 Board would get measures to give assurance on the steps that were being taken.

**ACTION: The Executive Director of Finance and Corporate Services to submit to the Q1 Board measures on what steps were being taken to address bullying and harassment.**

#### **Annex A - Business Plan 2016/17 review**

11.6 Progress against the 2016/17 Business Plan was on track. While there were some gaps, notable progress and achievements had been made in delivering Aim 5, in particular:

- The Finance Code was in place;
- The Governance Framework had been developed and required embedding across the organisation; and
- A Technology Board (incorporating a digital technology strategy) was in place.

11.7 However, a culture change was still needed to achieve all the aims.

#### **Annex B - 2016/17 Financial Position as at 31<sup>st</sup> March 2017**

11.8 The underspend as at 31 March 2017 was £848k. This was half of the 2015/16 underspend. There were no breaches in control totals but the under spend could attract criticism from PACAC. In the previous year, there had been criticism of the underspend and the size of the queue. However, progress was being made to demonstrate that PHSO could deliver performance and also make savings.

11.9 A Board member asked whether PHSO had a consistent definition on Value for Money (VFM) and whether the Audit and Risk Assurance Committee had reviewed the underspend. In response, the Board was informed there was a metric which had been used in the past on VFM. The organisation would continue to report and build on work from Internal Audit (KPMG), the National Audit Office (NAO) and the Risk and Assurance Committee. A report would be submitted to the next Audit & Risk Assurance Committee meeting on VFM.

### **Annex C - Strategic Risk Report and Register Q4 2016/17**

11.10 The strategic risk register had been discussed by the Board at its March 2017 meeting. The Board had raised concerns about the gap in strategic risks, which had been incorporated into this report. It was noted that the strategic risks in the report were those risks external to the organisation which were likely to impact on PHSO's strategy.

11.11 The risk register had been overlaid by the 2016/17 tolerances. Five risks had been presented to the Board for discussion. It was noted that the day to day risks were managed in directorate and project risk registers. Significant risks in these registers would be escalated to the Board.

11.12 In discussion, the Board made the following comments:

- The Risk Register did not capture the risk of the Transformation Programme;
- There was need for more discussion on the top 5 risks to consider their ratings. There were mixed views about risk 5.3 and whether it was a risk to the organisation. Risk 4 was not considered to be a big risk;
- Risk 1 was wrongly framed as there was a bigger risk of complaints not coming to the Ombudsman.

11.13 In response, the CEO emphasised that the report was not a final one as the intention had been to gain input from the Board. Strategic Risk 4 took into account the changes happening around the health care sector such as moves to private care and the introduction of STPs and Safe Spaces. Some members pointed out that STP bodies were developing and would become entities in their own right. It was not clear where responsibility lay between the NHS and the STPs. There was a danger therefore that Ombudsman Services would become irrelevant.

11.14 The Chair requested that the report be taken away, recalibrated in light of the Board's comments and be re-submitted at the next meeting.

**ACTION: The Executive Director of Finance and Corporate Services to submit the Risk Register at the next Board meeting, taking into account members comments.**

## IN YEAR ACTIVITY AND POLICY

### 12. Communication

#### Internal Communication

- 12.1 An update report on Internal Communications and Engagement for Q4/2016 had been circulated. The Board was being asked to **note** progress and upcoming internal communication and engagement activities.
- 12.2 There had been a focus on the reshaping work, collecting feedback and developing communication. 540 communications had been received. There was a need to explain what change meant in practise, particularly in regards to the TOM.
- 12.3 A three-year internal communications and staff engagement strategy was being developed and would be implemented towards the end of Q2 of 2017/18.
- 12.4 A question was raised as to whether Executive Directors were sufficiently supported in day to day management given the changes the organisation was going through. In response, the Executive recognised that a great deal of senior management time was being given to the transformation project.

#### Stakeholder Engagement

- 12.5 A report titled “Responding to the Stakeholder Survey” had been circulated.
- 12.6 The Stakeholder return rate had been very low. However, the research revealed that less than half of stakeholders and MPs had a positive perception of PHSO. MPs familiarity with PHSO (61%) was marginally less than that of the National Audit Office (NAO - 65%) and the Local Government Ombudsman (LGO - 66%). Those with negative views cited perceived issues with lack of strategy, inefficiency and the pace of change.
- 12.7 The General Election would provide an opportunity to engage proactively and raise awareness of PHSO. There was information on an “App” for parliament. A briefing would be sent to parliament and plans were in place to have an MP panel in November 2017 to gauge its impact.
- 12.8 A new stakeholder strategy was being developed to identify the different stakeholder groups. This would be embedded in the Strategic Business Plan and carried out in two phases over a three year Strategy. Phase 2 would focus on developing a more detailed influencing strategy.
- 12.9 In discussion, members welcomed the strategy and proposals. A question was raised on who would take responsibility for learning and best use of resources for influencing others in terms of stakeholder mapping given the changing

landscapes. In response, the Executive advised that they would be working with a wide range of organisations.

12.10 Board members needed to give consideration to their PHSO role, and the Code of Conduct given that in other business meetings, they were known to be PHSO Board members.

12.11 The Board **noted** the report.

### **13. Business Case for Customer Satisfaction Surveys**

13.1 A Business Case Amendment for the Complainant Feedback Survey had been circulated. The value of the total contract had exceeded £100,000, hence required Board **approval**.

13.2 The original contract had been for the delivery of a survey for one year with options to extend into years two and three, subject to business requirements and satisfactory delivery of the contract. Approval was sought to extend the contract for a full three years at a value of £180k. The extension would only be exercised in the third year if PHSO continued to be satisfied with the performance of the contractor.

13.3 In response to questions raised, the Board was informed that the contractor carried out the research whilst PHSO's research team managed the contract and analysed the data.

13.4 The reduction in the number of interviews had still produced statistically reliable data but there was scope to increase the sample size in future. There was a competitive process that ensured value for money in the original proposals and the performance of the company had been assessed against the objectives set before PHSO considered extending the contract.

13.5 The tender was carried out using the Government framework which ensured our process was OJEU compliant.

13.6 The Ombudsman emphasised to the Board that the contract was critical to PHSO as an organisation.

13.7 The Board **approved** the Business Case.

### **14. Liaison Visits to NHS Trusts**

14.1 The Board received a presentation from the PHSO Liaison Manager on Liaison Visits to NHS Trusts.

14.2 The programme had commenced in June 2014 to cover all NHS organisations in England from front line primary care providers through to major NHS Trusts and NHS England. The focus had been practical to ensure organisations understood PHSO's role and improve casework efficiency. There would be sharing of learning from PHSO's casework and examples of good practise to

help improve the way complaints were dealt with locally. This would break down barriers and resolve cases quickly.

- 14.3 PHSO was reviewing how it would engage with other external organisations. Bringing the learning and embedding it into casework was still a challenge. The CEO pointed out that after implementation of the operating model, there would be more headcount to channel resources to this work.
- 14.4 A Matrix was in place to identify where impact was biggest in terms of: disproportionately upholding of cases, staff insights and horizon scanning of what the cases were saying. PHSO had been reactive to date. However, the hope was to identify an organisation to liaise with and create a sophisticated, pro-active model.
- 14.5 Currently, there was no framework for complaints training. There was need to work with regulators such as NHS England, CQC and others to deliver training.
- 14.6 The LGO Chair mentioned that his organisation received requests for complaints training and that there was demand. They had a manual and were now setting up an online network. He would arrange for PHSO to have links with LGO in order that best practice would be shared.
- 14.7 The Chair in conjunction with the CEO would be having discussions with the CQC on training Bodies in Jurisdiction on complaints.
- 14.8 The Board expressed its grateful thanks to the Liaison Manager for her very insightful presentation. It was agreed this work should be formalised and extended.

**ACTION: The Chief Executive to consider appropriateness of LGO training on complaints.**

## **STEWARDSHIP AND GOVERNANCE**

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

- 15.1 The Chair of the Audit and Risk Committee (ARAC) gave a verbal update on matters concerned with the Committee. He noted that two sets of minutes were included in the Board pack but that, owing to the non-alignment between the Committee's meetings and those of the Board, Minutes from the meeting held on 17 May 2017 were still in draft and had not yet been circulated. He outlined a summary of the key matters that had been considered at the May meeting:

The list of legacy actions outstanding from meetings in prior years had now been substantially cleared. Those remaining are on target to be completed as scheduled, or were to be addressed at the meeting.

## **16. Report: Quality Committee**

16.1 The Chair of the Quality Committee gave a verbal update of issues that would be considered at its next meeting on 23 June 2017. The meeting would focus on:

- a) The Service Charter Dashboard - The Committee would have the chance to review 8 months' worth of data although caution would still be applied when drawing conclusions about trends. The Committee would focus on the next level of analysis asking the 'so what' question when it comes to divergence between complainant feedback and quality assurance responses;
- b) Benchmarking Service Standards;
- c) Bodies in Jurisdiction research; and
- d) Deeper dive on Final Decision Reports - The Committee would focus on understanding the scope of the new project set up to improve the quality of our final decision reports.

16.2 A meeting pack for pre-reading would be circulated to members of the Committee by the end of the week. This would give members the chance to read more detail in greater depth in advance so that during the meeting they could focus on tighter executive summaries. Two final sample investigation reports would be included in the pack to support the deeper dive session on final decision reports. The Chair emphasised the need to set clear parameters around deeper dives, ensuring outcomes of discussions are anchored and fed into existing initiatives. The follow up process followed in relation to the deeper dive session on Commitment 3 was highlighted as an example of this.

16.3 In response to a question on whether the quality of final decisions was also reviewed, the Chair reiterated plans to focus on final decision reports at the next meeting.

16.4 The Ombudsman also pointed out that there had been feedback from some external groups on quality.

16.5 The Board **noted** the update.

## **17. Communication to Staff**

17.1 The Executive Director of External Affairs and Insight summarised the matters to be reported to staff following the Board meeting.

## **18. Any other Business**

18.1 It was noted that there was significant risk of a cyber-attack and the Board had legitimate concerns. The Board requested for a report be submitted to the next Board meeting, detailing the mitigations in place to counter the risk and whether any penetration testing had been effected.

18.2 The Chair of the Audit and Risk Committee (ARAC) wished to put on record his grateful appreciation to the Executive for the work done on receiving “significant levels of assurance” on the majority of the audit reports. The Interim Director of Governance who was attending her last Board meeting was thanked for her contribution to the organisation.

**ACTION: The Executive Director of Finance and Corporate Services to submit a report to the next Board meeting on cyber-security including penetration testing.**

## **19. Review of the Meeting**

19.1 Observers commented that the discussions had been informative. They had been impressed by the level of scrutiny and challenge from the Non-Executives in supporting the Business and the interlinkages between the Board and its Committees.

19.2 Board Members commented that:

- In future CEO reports, reference is made to significant matters raised in previous meetings, so that the board could be updated on progress or whether the issue was now closed. This was particularly important given the time that passes between each board meeting, and the need for Non-Executives to get a complete picture.
- There was need to consider how to share feedback from the Committees to the Board. This would drive effectiveness and improve engagement; and
- The detailed Operational Report was to be commended as it marked a good change in reporting.

19.3 The Chair commended the meeting, noting that it had been instructive and disciplined, with robust challenge from the Non-Executives. He was equally pleased with the Executive for the rigour in defending their positions. More engagement would result in building up trust.

**ACTION: The Secretariat to consider a mechanism for sharing feedback from the Committees to the Board when Committee meetings are out of sync with Board meetings.**

## **20. Date and location of next meeting and Forward Plan**

20.1 The next meeting would be held on 7 July 2017 in London and would consider approval of the 2016/17 Annual Report and Accounts.

*The meeting ended at 16:28.*