

**Approved Minutes of the Board Open Session meeting held on  
12 December 2019 via VC between Citygate, Manchester and Millbank  
Tower, London**

**Chair:**

Rob Behrens CBE, the Ombudsman

**Non-Executive members:**

Sir Alex Allan KCB

Elisabeth Davies

Dean Fathers

Balram Gidoomal CBE

Alan Graham MBE

Mick King

Ruth Sawtell

Dr Julia Tabreham

**Executive Members:**

Amanda Campbell CBE, Chief Executive

Alex Robertson, Executive Director of  
Strategy and Operations

Gill Kilpatrick, Executive Director of  
Corporate Services

**Observer:**

Heather Ransom, Public Affairs and  
Insight Manager

**Apologies:**

Andrew Dawson, Governance Officer  
(minutes)

Maria Mansfeld, Interim Chief of Staff

**In attendance:**

Karl Banister, Director of Legal and  
Professional Services

Abigail Howarth, Director of Operations  
and Quality

Richard O'Connell, Director of Resources

Warren Seddon, Director of Strategy and  
Communications

James Hand, Assistant Director Business  
Management

Faridah Newman, Governance Officer  
(minutes)

Faye Glover, Assistant Private Secretary  
to the Ombudsman (minutes)

**Item 15 (Complex Casework)**

Deirdre Micklethwaite, Assistant Director

Amanda Harrington, Operations Manager

Kate Sandham, Operations Manager

Paul Farrell, Senior Caseworker

Steve Harland, Senior Caseworker

Carolyn Preston, Senior Caseworker

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

- 6.1 Rob Behrens welcomed all present to the meeting, highlighting item 13 'Casework Decisions and Outcomes' as a priority issue which required discussion and consideration by the Board.

## **7. Declarations of Interest**

- 7.1 Elisabeth Davies declared an ongoing interest as raised at 8.1 in the meeting of 1 October 2019. She has received ethical approval for this research which is now underway.

## **8. Minutes and Matters Arising from the previous meeting, 1 October 2019**

- 8.1 The minutes of the Board Open Session meeting held on 1 October were approved subject to the below amendments.
- 10.7: Correct typographic error in Amanda Campbell's name;
  - 11.1: Amend to read '*to comply with our recommendations was a daily challenge*';
  - 11.5: Amend to read '*we had not yet investigated all the cases*';
  - 12.2: Amend to read '*the mismatch in power and access to resources between complainants and the organisations we investigate*';
  - 12.3: Correct typographic error to read '*as happened elsewhere*';
  - 12.4: Correct typographic error in Alex Allan's name;
  - 12.6: Re-word in consultation with Amanda Campbell;
  - 13.5: Amend to read '*at least one Panel member would advise*';
  - 15.3: Amend to read '*CMS training staff*';
  - 16.3: Amend to read '*an off the shelf solution, such as Diligent*';
  - 16.7: Amend to read '*available on request for committee Chairs*';
  - 18.6: Re-word in consultation with Amanda Campbell;
  - 19.4: Amend to read '*had discussed how research methods could be more representative of the population*'.

### Matters Arising

- 8.2 Members provided updates on Board Matters Arising as below:
- March 2019 Board meeting, item 12.4:  
This has been deferred to March 2020 to align with the Staff Survey.
  - June 2019 Board meeting, item 13.1:

Ruth Sawtell accepts that actual costing information is not available but that the Executive are cognisant of reducing the level of resources required to complete the activity.

- June 2019 Board meeting, item 13.3(i):

Alex Allan queried the designation of this item as 'completed'. Rob Behrens clarified that the identification of software to support paperless Board meetings is being taken forward as part of a wider project. The designation would be revised to 'In train'

- June 2019 Board meeting, item 22.2:

Alex Allan observed that London turnover seems high compared to that in Manchester. Amanda Campbell agreed to re-visit this data for assurance.

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

- 9.1 Amanda Campbell distributed the 2019/20 Staff Survey, explaining that they had been embargoed until now to follow the wider Civil Service Staff Survey schedule. She explained that the overall results were positive, particularly considering the timing of the survey in the middle of the pay dispute, which is now resolved.
- 9.2 Alan Graham asked what lessons had been learned from governance of the two ICT projects. Amanda Campbell explained that each project had commissioned lessons learned analyses running in parallel with consistent approach, and that both are due to conclude in January 2020. A report would be presented to the March board. Mick King observed that the successful conclusion of the projects was impressive given the risks in undertaking such projects simultaneously.
- 9.3 Dean Fathers observed that with decreasing staff turnover there is often increased dissatisfaction with career progression opportunities. Amanda Campbell agreed, highlighting that additional Senior Caseworker positions were to be advertised in the New Year, in addition to the planned roll-out of 'Aspiring Managers' training.
- 9.4 Ram Gidoomal queried why the testing cited in paragraph 3.0 was not scaled up. Gill Kilpatrick explained that the infrastructure to support this was not in place at the time and that this was identified as a key issue for continuous improvement.
- 9.5 Julia Tabreham queried whether there were concerns around potential rising costs of bringing ICT support in-house. Amanda Campbell agreed the need to monitor this but that early signs are good in that savings have already been made in the short time since exit from external support was completed. The in-house support now in place is a much more modern and flexible system.
- 9.6 Gill Kilpatrick supported Amanda Campbell's assessment, adding that there is and will be clear governance of costs on an ongoing basis by the Executive Team, and that resource requirements will also be monitored.

9.7 The Board noted the CEO's report.

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

10.1 Elisabeth Davies congratulated Rob Behrens on his recent election to the Board of the International Ombudsman Institute (IOI), and all members echoed this.

10.2 Rob Behrens thanked members for their congratulations. He emphasised that his new role with the IOI is an opportunity to enhance comparative learning from other Ombudsman services around the world and bring it back to PHSO.

10.3 Rob Behrens said he was very pleased to note that 3 new non-executive Board members, Linda Farrant, Carolyn Hurst and Anu Singh had been appointed after an exhaustive process led by Elisabeth Davies.

10.4 Rob Behrens provided further information about the meetings he has attended since the last Board meeting (Annex A of the report):

- LGSCO Leadership Conference was a highlight. Rob Behrens thanked Mick King for hosting this event.
- Meeting with the Healthcare Safety Investigation Branch (HSIB) to discuss the draft Health Service Safety Investigations Bill (HSSIB). This currently proposes not to allow disclosure from the 'safe space' to PHSO, which is a serious challenge to the Ombudsman's authority. Rob Behrens said that PHSO currently has a good working relationship with HSIB and expressed the importance of continuing to advocate on this issue.
- The first meeting of the Ombudsman's Expert Advisory Panel took place in November and received excellent feedback. Members have already begun to undertake advisory work.

10.5 Members discussed the issue of Ombudsman access to 'safe space' evidence in the draft HSSIB:

- Amanda Campbell explained that the Public Affairs and Insight Team had briefed the House of Lords on this issue before purdah and that this was well-received;
- Mick King agreed that this issue is counter to the wider Ombudsman reform agenda and wholly supports Rob Behrens in his position on this. He also offered his support in facilitating a full sector response if required;
- Dean Fathers highlighted the need to work closely with NHS Resolution on this. Amanda Campbell said that is the intention.

10.6 The Board noted the Ombudsman's report.

## **11. Quality Committee 13 November 2019 (verbal update)**

11.1 Elisabeth Davies advised the Board that the draft minutes of the meeting had not been available at the time the Board papers were distributed.

- 11.2 Elisabeth Davies provided a verbal update on the main topics of discussion at this meeting, including the Q2 (2019-20) Quality Performance Report, Quality Strategy, Clinical Advice Review, Focus Groups, and Equality Diversity and Inclusion. She noted that the committee was moving to a broader focus on scorecard issues, with less emphasis on performance data. As part of this the committee planned to look at projects that affect casework quality such as the clinical advice review.
- 11.3 Alex Allan explained that the committee had identified issues regarding insufficient empathy in Caseworker communications which indicated a need to go beyond standard templates.
- 11.4 Dean Fathers said that the narrative regarding the power imbalance between complainants and the organisations they are complaining about was identified as needing further exploration and understanding.
- 11.5 Rob Behrens thanked committee members for their comments. He explained that Amanda Campbell shared internal communications this week about quality and that compliance on this matter is a key issue going forward.
- 11.6 The Board noted Elisabeth Davies' verbal update.
- 11.7 **Action:** Governance to distribute minutes of the 13 November 2019 Quality Committee meeting to Board members by e-mail today.

## **12. Audit and Risk Assurance Committee 5 November 2019 (minutes)**

- 12.1 Alan Graham introduced the minutes, explaining that as well as usual ARAC business discussed at this meeting, the new Freedom to Speak Up Guardian presented a draft new Freedom to Speak Up Policy.
- 12.2 Alan Graham welcomed the organisation's new Freedom to Speak Up Policy which ARAC approved subject to some minor amendments. This now replaces the former Whistleblowing Policy and will hopefully better support people to raise concerns they may have.
- 12.3 Julia Tabreham queried whether it is ARAC's responsibility to formally ratify recent Non-Executive Member (NEM) recruitment to the Board. Amanda Campbell noted that NEM recruitment decisions are the responsibility of the Ombudsman. Rob Behrens presented a report regarding the recent NEM recruitment activity to the Remunerations and Nominations Committee this morning who signed off on the process. This has been reported on to the Board for information.
- 12.4 Elisabeth Davies asked about the work undertaken to produce a new Value for Money Scorecard. Alan Graham replied that, following comments from ARAC, James Hand will bring the draft Scorecard back to the next meeting. Members were agreed that given the challenges identified in the peer review, this must go beyond calculations of cost per complaint.

12.5 Balram Gidoomal requested that a typographic error in his name on the first page of the draft minutes be corrected.

12.6 The Board **noted** the minutes and update.

### **13. Casework Decisions and Outcomes**

13.1 Abigail Howarth presented the report to the Board. She noted that Service Charter Feedback scores have shown marginal improvement since 2016-17.

13.2 Abigail Howarth noted that our aspiration to make the right decision at the right time was delivering a more proportionate approach and explained that generic casework skills are applicable across both health and parliamentary complaints. A move to more specialised teams would be an opportunity to build on existing knowledge within the organisation and better support Caseworkers in assessing and investigating parliamentary complaints. This built on experience around Continuing Healthcare funding casework.

13.3 Abigail Howarth said that, to staff the specialist teams, Operations would consider targeted recruitment of people from central government backgrounds or with other government experience.

13.4 The Board discussed outcomes in Parliamentary cases. Abigail Howarth said that the trend towards upholds was now upwards. She explained that thorough baseline research to establish the robustness of decisions on Parliamentary complaints would now be undertaken.

13.5 Dean Fathers added that the Quality Committee would oversee this process to ensure that it uses quantifiable measures.

13.6 Elisabeth Davies queried the potential implications of designating complaints as 'partly upheld'. Abigail Howarth explained that Operations are considering whether to move to a system where complaints are either 'not upheld' or 'upheld', with a clear supplementary narrative to explain where a complaint is not fully upheld across all issues.

13.7 Alan Graham asked what the average waiting times are for call connection through the Customer Helpline as this is many people's first experience of PHSO. Abigail Howarth replied that this is around 20 seconds, and Amanda Campbell explained that there are live boards on the walls by the Intake Team in Manchester which display management information regarding call waiting times.

13.8 The Board **noted** the report.

### **14. Financial Monitoring Report October (P7) 2019/20**

14.1 Richard O'Connell presented the report to the Board. He outlined that the Executive Team have plans in place to reduce the underspend as we head to year end. A smaller amount will be held back as a contingency.

14.2 Elisabeth Davies asked about the financial risk of movements in annual leave accrual and if this could be avoided. Amanda Campbell confirmed that steps were being taken to resolve this issue and harmonisation would be complete at the end of the next financial year.

14.3 The Board **noted** the Financial Monitoring Report

## **15. Complex Casework Presentation**

15.1 Deirdre Micklethwaite, Amanda Harrington, Kate Sandham, Paul Farrell, Steve Harland and Carolyn Preston joined the meeting.

15.2 Deirdre Micklethwaite introduced members of the Complex Casework Team to the Board, explaining that in total this is comprised of 14 Senior Caseworkers and 3 Managers across both the London and Manchester offices of PHSO.

15.3 Paul Farrell presented to the Board an anonymised example of a health case that he has recently been working on regarding diagnosis of persistent vegetative state.

15.4 Carolyn Preston presented to the Board an anonymised example of a case that she has recently been working on regarding the Care Quality Commission (CQC)'s regulation of the Fit and Proper Person test required in the recruitment of NHS Directors.

15.5 Steve Harland presented to the Board some anonymised examples of work that he has undertaken after issuing a Final Investigation Report, including presenting evidence for Judicial Review.

15.6 Rob Behrens asked members of the Complex Casework Team whether they felt sufficiently supported in their work. Steve Harland explained that due to the highly sensitive nature of complaints that the Complex Casework Team deals with, they do receive a high level of scrutiny and constant challenge both internally and externally to PHSO, which can be difficult.

15.7 Abigail Howarth offered her congratulations to the Complex Casework Team for their work in reducing the number of aged cases that they hold, explaining that this has had a significant impact.

15.8 Mick King offered further congratulations to Carolyn Preston in particular, stating that investigations of this type can help to restore both the complainant's and the wider public's faith in public administration.

15.9 Elisabeth Davies asked whether there was potential for the Complex Casework Team to learn from the ongoing mediation pilot work taking place within Operations. Steve Harland responded that he thought there were significantly less opportunities for resolution work within Complex Casework as opposed to elsewhere within Operations as complaints often involve substantial relationship breakdown between the complainants and named organisations.

15.10 Rob Behrens thanked members of the Complex Casework Team for joining the Board meeting to explain their work.

## **16. ICT Strategy update**

- 16.1 Richard O'Connell noted the success of having two major projects going live on the same day and thanked everybody involved. He said the experience had a lot of positive factors and some learning opportunities. Problems had been resolved quickly and both IT projects were now in a steady state.
- 16.2 Alex Allan congratulated Richard O'Connell and the team on successfully launching two projects simultaneously as this can be risky, but it was a success.
- 16.3 Alan Graham asked what the next major projects are. Richard O'Connell said that there were a number of projects starting in the new financial year, which whilst not as large, were complex.
- 16.4 The Board **noted** the report.

## **17. Strategic Risk Report October (P7) 2019/20**

- 17.1 Richard O'Connell presented the paper to the Board.
- 17.2 Richard O'Connell said that the risks on the Strategic Risk Register were broadly stable. However, there has been a recent increase in demand for PHSO's service. If demand continues to rise, this will pose a strategic risk. Nonetheless, the number of cases older than 52 weeks has reduced, meaning we are back in risk tolerance.
- 17.3 Ruth Sawtell asked if any complainants were missing out as a result of the early closure of intake telephone lines on Fridays. Abi Howarth confirmed that the call volume has decreased on Fridays and increased on Mondays.
- 17.4 The Board **noted** the strategic risks and the actions in mitigation set out in the report

## **18. Operations and Corporate Performance Report October (P7) 2019/20**

- 18.1 Abi Howarth presented the paper to the Board. She highlighted that there has been a sustained 13% increase in demand throughout the year, but most KPIs were holding steady. The queue was expected to peak in March at around 700 and was then expected to fall to tolerance in October 2020. She also drew attention to the recruitment and training programmes. There was a discussion about the effect of the resultant increased waiting period from 4 to 5 weeks. Abi Howarth noted that in context this was acceptable and the 13 week and 16 week figures showed improvements.

Balram Gidoomal asked if the 13% rise could have been anticipated and if not, how we could be confident about current levels of demand. Abi Howarth replied that we had been unable to attribute reasons, but the rise in demand had been sustained. Mick King said that it was difficult to attribute, for example were there a link to austerity the rise would have been expected to have occurred earlier. There might be a link to reduced internal complaints handling capability, but this was speculation - no other Ombudsman had been



able to come up with an explanation. Alex Robertson noted that the new CMS system should enable better interrogation of these issues.

18.2 Julia Tabreham asked if the increased maternity/paternity leave was due to having younger people employed in the workplace. Abi Howarth agreed that this was a contributing factor, as was the stability offered by permanent contracts.

18.3 There was discussion about diversity of candidates for roles in PHSO. Gill Kilpatrick said that a series of steps had been taken to ensure that the pool of new recruits was as diverse as possible including blind applications and the introduction of an application form.

18.4 The Board **noted** the report

## **19. Business Plan and Equality Action Plan 2019-20 update**

19.1 James Hand presented the report to the Board. He noted that 2019-20 business planning is on track for period 7. He confirmed that there are measures in place to ensure that actions which have been delayed will be complete by year end. He drew attention to the Clinical Advice Implementation Project where there has been good progress since the Board last met and in response to a question from Balram Gidoomal said that steps were being taken to bring the project back to green status.

19.2 Alex Allan asked about progress on the issues relating to empathy raised in the clinical advice review. Abi Howarth assured the Board that we were making progress in this area and looking into training for clinical advisers regarding empathy, balancing evidence and showing the rationale for advice.

19.3 The Board **noted** the update.

## **20. Overview of process for Annual Report and Accounts 2019/20**

20.1 Richard O'Connell presented the paper to the Board.

20.2 Rob Behrens stressed the need to use accessible language in the Annual Report. Warren Seddon confirmed this was a key issue and the team will discuss this with the Ombudsman.

20.3 Alan Graham said that the date of the external audit was close to the deadline for finalising the report and accounts. He asked if this was going to be achievable. Richard O'Connell confirmed that the timescale is similar to last year. Gill Kilpatrick confirmed that there were actions in place to mitigate the risk including interim activity by the NAO which was already underway. Alan Graham said that timing had been tight last year as there had been no leeway. He said he would discuss the timing issues further at ARAC.

20.4 The Board **noted** the proposals.

## **21. Business Planning and Budget 2020/21**

21.1 Gill Kilpatrick presented the paper highlighting that the successful Comprehensive Spending Review bid has put PHSO in a good position to maximise delivery and impact. Gill Kilpatrick also said that a draft business plan and budget would be brought to the Board at the January 2020 meeting.

21.2 The Board **noted** the paper.

## **22. Review of Governance Framework**

22.1 Karl Banister presented the paper, proposing amendments to the Governance Framework.

22.2 Julia Tabreham asked if the new framework would include new arrangements for example, the Expert Advisory Panel (EAP). Karl Banister replied that we would look at including the governance arrangements for the EAP once these were finalised.

### **22.3 Action: Governance to include EAP to the Governance Framework once arrangements were finalised**

22.4 Elisabeth Davies noted the 21-day target to approve minutes. Elisabeth said that contextually this would be suitable in a steady state. Ideally minutes would be shared earlier than the 21-day target. She suggested that progress against this target be monitored.

### **22.5 Action: Governance team to commence monitoring of progress against 21-day target for sharing Board and Committee minutes**

22.6 Alex Allan said the chart on page 182 (Assurance Map) was confusing. Gill Kilpatrick and Alex Graham explained the approach taken in the assurance map, which had recently been approved by ARAC. It was agreed that the chart would be reviewed, with a view to simplifying it.

### **22.7 Action: Governance to review the Assurance Map**

## **23. Any Other Business**

23.1 Rob Behrens asked for reflections on the SLT and Board Away Day. Mick King commented that the engagement and enthusiasm was high. Balram Gidoomal agreed on the high enthusiasm and noted the skill of the facilitator. Dean Fathers said the preparation was good and that conversations were taken seriously. Ruth Sawtell said there was an excellent mix of attendees, including EAP members, SLT and Board. Karl Banister said the Away Day was significant in terms on the strategic plan. Rob Behrens thanked everyone involved. Members discussed the next stage and asked for sight of outputs.

23.2 **Action: The away day team to report back to the Board on away day outputs**

**24. Date of next meeting and Forward Plan**

24.1 The next meeting is the Business Plan and Budget meeting in London on 30 January 2020.

24.2 Dean Fathers asked if we could get the Away Day for 2020 in the diary soon.

24.3 **Action: Governance Team to share a ‘corporate calendar’ containing meetings and projected Away Days with Board members**

The meeting ended 16:00