NHS England

Minutes of the Board meeting held in public on 6 November 2014 at Quarry House, Quarry Hill, Leeds, LS2 7UE

Present

- Professor Sir Malcolm Grant (Chairman)
- Simon Stevens – Chief Executive
- Mr Ed Smith – Non-Executive Director (Deputy Chairman)
- Professor Sir John Burn – Non-Executive Director
- Ms Margaret Casely-Hayford – Non-Executive Director
- Mr Ciaran Devane – Non-Executive Director
- Dame Moira Gibb – Non-Executive Director
- Mr Noel Gordon – Non-Executive Director
- Mr David Roberts – Non-Executive Director
- Mr Paul Baumann – Chief Financial Officer
- Ms Jane Cummings – Chief Nursing Officer
- Sir Bruce Keogh – National Medical Director
- Mr Ian Dodge – National Director for Commissioning Strategy
- Dame Barbara Hakin – National Director: Commissioning Operations
- Mr Tim Kelsey – National Director for Patients and Information
- Ms Karen Wheeler – National Director: Transformation and Corporate Operations

Apologies

- Lord Victor Adebowale – Non-Executive Director

In attendance

- Prof Sir Cyril Chantler - Chair, Quality and Clinical Risk Committee
- Mr Jon Schick – Head of Governance and Board Secretary
- Mr Tom Easterling – Director of the Chair and Chief Executive's Office

Item	
69/14	**Declarations of interest in matters on the agenda**
	There were no declarations of interest in matters on the agenda
70/14	**Minutes of the previous meeting**
	The minutes of the meeting held on 19 September 2014 were accepted as an accurate record. There were no matters arising

71/14	**Chief Executive's report**
	Simon Stevens drew the Board's attention to the following items from his report: **NHS Five Year Forward View** The NHS Five Year Forward View was published on 23 October 2014. This report, jointly agreed by the national NHS leadership bodies, set out a shared point of view and actions they had all committed to take. It explained why healthcare needed to change, illustrated how it could be organised in the future and identified actions needed to support the changes required. To launch implementation, David Bennett, David Flory and Simon Stevens had held regional meetings with Chief Executives of providers, clinical commissioning groups and local authorities. In addition to priorities that would be implemented immediately, actions related to the Forward View would also be embedded in the shared planning guidance for 2015/2016. **NHS Performance** There had been much mobilisation of effort across the NHS to get waiting times back on track. Hospital Trusts in particular were working to treat long waiters by the end of November. With support from the NHS TDA and Monitor, significant work had been undertaken across the country to manage Accident and Emergency and Ambulance service pressures to ensure patients would continue to receive the care to which they were entitled over the winter period. Mental health access standards had been published for the first time and would take effect from next year. There would also need to be greater progress with child and adolescent mental health services as underlined by a recent Health Select Committee report. **Contingency planning for the Industrial relations dispute and planning and preparedness for Ebola** Dame Barbara Hakin updated the board, informing them of action taken in preparation for the first round of industrial action and the continuing activity to make sure, in particular, that ambulance services were supported in preparation for future industrial action. She also reminded the Board of NHS England's duties for emergency planning and resilience, and described the specific responsibilities required of the NHS to support the national response to Ebola. NHS England had sought assurance from all providers that their staff were fully briefed, had access to the right equipment and would know how to use that equipment should they be required to do so. NHS England would also be undertaking spot checks in Accident and Emergency departments and GP surgeries. On behalf of the Board the Chairman expressed his thanks and congratulations to all involved in the preparation of the Forward View, and the Board asked to put on record their appreciation to all NHS staff involved in the preparation for Ebola. **The Board noted the report.**

72/14	**NHS Performance Report**

NHS performance

Dame Barbara Hakin provided an update on NHS performance against a range of patient care and activity indicators, highlighting that the vast majority of patients were seen in a swift and timely fashion. Nevertheless there had been a slight dip in performance against the four hour Accident and Emergency standard over recent weeks, with increased demand and a continuing rise in emergency admissions. Partnership work with NHS TDA and Monitor would continue to ensure effective capacity planning and efficient processes were in place locally to manage this increase in patient demand and need, and:

- Significant additional resource and support had been provided to ensure all hospitals have sufficient capacity to deal with patients needing admission;
- Work with social care partners was focused on putting in place sufficient support to avoid unnecessary hospital admissions;
- NHS TDA and Monitor were addressing ambulance trust performance.

The 18 weeks standard for referral to treatment time had also not been fully met. Dame Barbara described actions over the summer to enable providers to plan additional sessions, treat patients who had waited longest, and ensure they would be able to maintain performance against the target over the winter.

NHS England had worked closely with Monitor, the NHS TDA and other partner organisations, putting in place more robust arrangements at regional level to help and support health economies to ensure patients received timely treatment. This included focus on improving access to diagnostic services, as well as a Cancer Task Force with joint clinical chairs from NHS England and the NHS TDA, which was leading work to ensure sustainability of standards for cancer treatment.

In further discussion the Board:

- Reaffirmed its commitment to early identification of patients with dementia, which would in some cases enable treatment to slow down progression of the disease as well as providing the opportunity to offer more help to the families and carers of the patients affected;
- Noted the focus that had been given to Improving Access to Psychological Therapies (IAPT), with significant increases in the number of patients receiving treatment;
- Noted that the requirements of the Better Care Fund had helped trigger changed behaviours but in a few parts of the country needing particular attention, David Bennett, David Flory and Simon Stevens were having joint face to face meetings with leaders of local organisations to make sure they understood the expectations of the three NHS national organisations.

Financial performance

Paul Baumann provided an update on financial performance, explaining that expenditure was £23m (0.0%) above plan over the year to-date and forecast to be £122m above plan in the year-end outturn position prior to further mitigating actions to ensure a balanced position. Within this position:

- The number of CCGs reporting cumulative deficits had reduced (by two) to 18 following successful implementation of recovery plans;
- Across all 211 CCGs there was now a small forecast overspend of £21m;
- The largest spending pressure within the £167m figure (1.2%) for specialised commissioning related to the Cancer Drugs Fund, which was the subject of a separate agenda item;
- There was a forecast £40m overspend on legacy expenditure, but it was anticipated that the final year end legacy position would improve.

Mr Baumann described the recently-completed Month 6 stocktake during which risks and mitigations for the remainder of the year were reviewed in detail by Area, Regional and National finance teams. Work continued to identify measures to close this remaining gap. The Board were concerned about the lack of remaining reserve to compensate for further trends or other items that could impact on the year end, and agreed this meant the position over the remainder of the year would require continued close management.

NHS England performance

Karen Wheeler reported on three aspects of NHS England performance: the business plan, major programmes and overall corporate risks. The Board:

- Received assurance that performance against the vast majority of NHS England business plan business areas was on track, although a small number were rated as amber/red and subject to further discussion at today's meeting. The Board noted that implementation of a new customer management system was expected to bring about a significant improvement in Customer Contact Centre performance by the end of the year.
- Noted that for major programmes, child protection information sharing was now rated as amber after work to implement first wave sites, but there remained risk in relation to programmes for Care.data and data services for commissioners.
- Noted that items in the summary of corporate risks were reported in other sections of the meeting, and received an update from Ed Smith about the work undertaken at the Audit and Risk Assurance Committee to review each corporate risk and, where necessary, undertake deep dives with the relevant corporate teams in order to confirm the assurance mechanisms in place.

The Board noted the report.

73/14	**Review of NHS Citizen and the NHS Citizens Assembly at the AGM**
	The Chairman introduced this item by describing the developmental and innovative nature of the work; Ciaran Devane and Lord Victor Adebowale had taken a leadership role alongside Tim Kelsey and colleagues, and the Chairman asked the Board to note the particular contributions from Olivia Butterworth and Mr Kelsey, whose work on the programme had received recognition from the Health Service Journal. He then invited Mr Devane to introduce the paper. The NHS Citizen process consisted of three levels: broad engagement through social media; face to face engagement to identify priorities, and; workshops held with NHS England on the day of the AGM. The work had been very successful and proposals were made about its further evolution, including ensuring that NHS England takes the opportunity to inform the process of its own priorities such as those articulated in the Five Year Forward View, and making sure the process is embedded as part of NHS England's core business. It was proposed that a task and finish group should be established, chaired by Lord Adebowale, to consider how the process evolves. The group would aim to take forward proposals about how to embed a culture of patient and public engagement in the way that health services operate, present their findings to NHS England's Leadership Forum in January 2015, and report to a future Board meeting. In further discussion the Board agreed that one of the most important outcomes of the Assembly meeting was a collective commitment to action in the light of the feedback received from the community representatives who participated in the process. Mr Kelsey outlined a number of key areas where action was needed, including improved access to primary care services and parity of esteem. NHS Citizen received funding from NHS England but was independently convened by four organisations including the Tavistock Institute, Involve, The Democratic Society and Public-i. All four would require support in order to move to the next phase of this work, including provision of training and coaching support to develop the initiative in the wider health economy. Mr Stevens strongly endorsed the work and reflected on his own recent meetings with citizen and patient groups that had highlighted the need for local as well as national NHS engagement, action that could be taken by providers in response to views from patient groups and action that could be taken outside the NHS itself. The Board were aware that participants were holding the organisation on trust to deliver the promises made at the workshops, and that it was important to ensure NHS England delivered on the expectations set that day. The Board: • **approved the next steps for the development of NHS Citizen and agreed in principle the requirement for resources in 2015/2016 to enable the business model to be further developed;** • **approved the establishment of a Board task and finish group to be chaired by Lord Victor Adebowale.**

74/14	**Five Year Forward View**
	Simon Stevens introduced the Five Year Forward View, explaining the work that would continue with national partners to catalyse local conversations needed across the country about the care models people might choose to develop, the support required, how this work would integrate with payment rules and how it would be supported through effective regulation and inspection. There were likely to be four types of health community that would require different tailored support: • Those already close to operating within one or more of the new care models; • Those where current services were highly stressed and which require a radical solution; • Most of the Communities who would largely identify their best strategic option; • High population growth communities with limited legacy provision and therefore enhanced opportunities to design a completely new service. Ian Dodge outlined the work that would continue with national partners. It would be critical to approach the work with a spirit of openness and engagement with the public, users of services, the voluntary sector and a range of different providers. One of the challenges would be how to structure the local and national dialogue in order to create a method through which health communities may receive structured support. The intention would be to create a range of prototypes that could subsequently be replicated more easily across the NHS. The Board reflected on the need for effective collaborative working to support implementation of the Five Year Forward View, and agreed that associated priorities should be brought back as the major topics for discussion and oversight at future Board meetings. **The Board noted the report.**
75/14	**Commissioning arrangements for 2015/2016**
	Next steps on specialised commissioning Simon Stevens opened the discussions on commissioning arrangements for 2015/16 by reporting on developments in specialised commissioning following discussions with CCG partners and patient groups. Incremental changes were proposed for next year, with NHS England continuing as principal statutory commissioner of specialised services but providing a series of fora through which CCGs could help shape the decisions that need to be made, including upon the extent to which it would be possible to make savings for reinvestment. This represented a pragmatic step forward to enable place-based development of local services whilst continuing to ensure national standards and shared expertise for the commissioning of specialised services.

Dame Barbara Hakin introduced the paper on specialised commissioning, which identified how specialised services are defined and how the portfolio is identified in response to recommendations ministers take from the Prescribed Specialised Services Advisory Group (PSSAG). She explained how NHS England was working closely with partners to make sure the integrity of a national approach especially for rare disorders is maintained, whilst also working closely with CCGs to ensure specialist services are integrated into the day to day services they commission. NHS England would work with CCGs to help them identify how they may become more involved under co-commissioning and improve integration with local services.

The Board noted this update on specialised services, and noted the proposals under a later agenda item for establishment of a Board Committee to oversee the related work programme.

Proposed next steps towards primary care co-commissioning

Simon Stevens opened the discussion by noting the principle of co-commissioning had been discussed at several meetings and received widespread support from CCGs. The three options open to CCGs had been discussed in detail at a recent meeting of the NHS Commissioning Assembly. The purpose of this work was to unlock the expertise and energy in CCG communities to improve primary care, join up pathways, enable more rounded prioritisation decisions around upstream care and support place-based commissioning as set out in the Five Year Forward View.

The process of developing co-commissioning had been a highly collaborative one with the NHS Assembly, CCG leaders and a number of other stakeholders. Lessons learnt from expressions of interest from CCGs had informed the development of a simpler, standardised approach to co-commissioning. This had resulted in a single arrangement for joint committees and a single model for delegation that excluded medical revalidation and performers list arrangements.

There would be a formal consultation on proposals for handling conflicts of interest. These proposals included:

- Clear rules around the governance of decisions;
- Training for lay chairs and lay members;
- Representatives from local Healthwatch and local authority members of the Health and Well Being Board would have the right to attend as observers at joint committee meetings;
- A register of interests;
- A register of procurement decisions that would subsequently be published in the annual report and accounts and signed off by the auditors.

To ensure national consistency, new national rules would be applied to all forms of primary care commissioning. One of the purposes of co-commissioning primary care was to enable CCGs to be able to respond better and more effectively to their local priorities and needs. Alongside the ability to insist on national rules it was proposed that CCGs would have freedom to design local arrangements, which could

	include different incentive schemes: however GMS GPs would continue to have an entitlement to the national Quality and Outcomes Framework (QOF). NHS England was looking to ensure that, in relation to the relevant functions to be delegated to CCGs, they would have access to the fair proportion of resource involved after the current re-structuring exercise within NHS England. The implementation timetable was tight, but plans were in place to support delivery of the programme by the end of March. In follow up discussion, the Chairman acknowledged that both papers represented a major step forward, and also raised expectations about CCG performance. The critical role to be played by the proposed lay chair and majority lay/executive members on CCG boards was highlighted, including their importance in strengthening decision making and managing potential conflicts of interest. In response to feedback from CCG lay members, a national training programme would be implemented before the new arrangements came into place. Ed Smith reported on feedback from CCG Audit Chairs who had attended recent workshops, and proposed they should receive a copy of the consultation document, for discussion at a series of Audit Chair workshops in January 2015, supported by the attendance of appropriate executive colleagues. Ian Dodge was also asked to take forward a proposal made by Mr Smith for a specific responsibility on the CCG Audit Committee Chairs to provide attestation back to NHS England on compliance with and execution of the process for conflicts of interest. **The Board:** • **Agreed the principles on specialised commissioning and co-commissioning of primary care.** • **Approved the three models for co-commissioning of primary care.** • **Noted the assurances received on conflicts of interest subject to the requirement that CCG Audit Committee Chairs and CCG Accountable Officers provide a personal attestation to NHS England on compliance with and execution of the process for conflicts of interest.** • **Approved proposals for flexibilities in contracts.** • **Approved the national principles for the deployment of the administrative resources as set out in the paper.**
76/14	**Transforming care for people with a Learning Disability**
	Jane Cummings presented an update on the Transforming Care programme. Earlier this year it had become clear that collectively it was taking longer than first envisaged to deliver all the commitments made in the Winterbourne View Concordat. The Transforming Care Programme included a number of work streams along with a new assurance programme, including a new assurance board co-chaired by Minister Norman Lamb and Gavin Harding from the National Forum for people with Learning Disabilities.

Governance had also been strengthened within NHS England, with establishment of a Learning Disabilities Programme Board. The programme included two key areas of focus:

- Delivering the best care now, ensuring that when appropriate as many as people as possible are moved into a community setting; and
- Future commissioning and funding models for learning disability services.

Underpinning these areas was a significant amount of stakeholder engagement work concentrating on enabling people with learning disabilities to have the same rights as everyone else in the community, including the right to have a job and somewhere they can call home.

NHS England was finalising job descriptions and putting application packs into easy read with the intention of recruiting two people with a learning disability to work with NHS England and co-design its programme for engagement.

The tracking of people who were in in-patient beds in April 2014 had taken longer than expected but was now complete. It was now possible to identify how many patients had been discharged and how many had a plan for discharge. Management information indicated the total number of people being discharged (not just those as of April 2014) was increasing.

In order to increase the number of discharges, NHS England would be implementing care and treatment reviews involving commissioners from local government and the NHS, clinical experts and experts by experience, who would - subject to appropriate consent - undertake to identify and address the reasons why individual patients were not being discharged. With appropriate support and training it was expected that over 300 care and treatment reviews would be completed over the next few weeks and over 40 clinicians had offered their support to undertake these reviews.

The Task and finish group established to consider the future care design chaired by Sir Stephen Bubb (Chief Executive, Association of Chief Executives of Voluntary Organisations) had now completed its work. Their report was being finalised and would be put into easy read, and was expected to be published at the end of November. The report would set out a number of recommendations requiring review from all stakeholders, intended to support the establishment of a future care design for services for people with a learning disability.

Margaret Casely-Hayford welcomed the report and suggested the Board should receive future reports that provided oversight of the co-ordinated support in the longer term. Ms Cummings agreed that such a report would be made available for future meetings.

The Board noted the report.

77/14	**Cancer Drug Fund**

The Chairman requested and received confirmation from all Members that they had received and read the papers following conclusion of the recent consultation.

Sir Bruce Keogh described the background which had led to establishment of the Fund and of the significant overspends now anticipated as a result of increasing demand and cost. Proposals had therefore been prepared to support the continued future introduction of new and effective drugs. He drew attention to three key safeguards:

- No drug would be removed from the fund if it was the only one available for a particular indication;
- Patients already in receipt of a drug would continue to receive it;
- If a drug had been removed from the list, the Cancer Drugs Fund (CDF) Panel would still be able to consider individual funding requests from a patient's oncologist.

There had been 189 responses to the consultation, with a range of views but broad support for a review of the Fund. People supported the need for a sustainable system, avoidance of duplication with NICE, and maintenance of as much transparency as possible (bearing in mind that some information would be commercial in confidence).

Simon Stevens drew attention to the themes from the consultation identified in the paper, and reinforced the importance of addressing equality issues. Companies could still price their drugs as they wish but their pricing decisions could impact on how the drugs would be treated through the CDF.

The Chairman confirmed that he had seen the detailed feedback and full analysis from the consultation, and confirmed this had been accurately reflected in the summary that had been presented to the Board for their consideration.

The Board reinforced the importance of ensuring patients would continue to be treated with proper compassion and care. In that regard, they noted that the Five Year Forward View included proposals for moves to a more sustainable footing, agreed the importance of the safeguards that had been outlined, and were assured that issues raised in the consultation process had been appropriately taken into account.

The Board:

- **Adopted the principles for operation of the Cancer Drugs Fund described in this paper.**

- **Agreed to delegate finalising and adopting Standard Operating Procedures for the Cancer Drugs Fund to the Chief Executive, after consultation with the Chair**

- **Noted and agreed their understanding that there were delegations of authority contained or implied within the Standing Operating Procedures, regarding the national CDF Panel managing within the CDF budget.**

78/14	**Better Care Fund**
	Simon Stevens reported good progress with the Better Care Fund (BCF) since the item was last discussed at the Board. An additional £1.5bn of proposed pooled resource had been voluntarily identified by local partners, making a total of £5.3bn. Dame Barbara Hakin described work undertaken. All BCF plans had been through a vigorous assurance and approval process; 6 plans were fully approved, 91 were approved with support and 49 approved with conditions. It was hoped that all plans approved with support would be fully approved by the end of November and that the 49 plans that were approved with conditions would be approved without conditions by the end of December. In some cases the planned emergency admissions reductions were quite ambitious. At this stage NHS England had not sought to "second guess" these ambitions. Work would continue to support the relevant Health and Well Being Boards, CCGs and Local Authorities to review these plans so they may be approved by the end of January. The Board noted that over the next few months, further work would need to be undertaken to ensure BCF plans were revised in line with the NHS operational planning process. The Board were also informed that from 1 April 2015 the Accountable Officers of all CCGs would need to attest to the fact that they approve their BCF plans. The Board wished to record formally their thanks to Andrew Ridley and the BCF taskforce for their work. **The Board noted the report.**
79/14	**Revisions to the Board Committee structure and corporate governance framework**
	Karen Wheeler reported on work to review and streamline the Board Committee structure, ensuring the Committees were fit for purpose, taking into account the feedback from the Board Effectiveness review undertaken by Margaret Exley and incorporating input from Non-Executive Directors and Internal Audit. The paper made recommendations for changes to the Board Committee structure that would help to streamline activity and raise the Committees to a more strategic level in support of Board functions. The review had provided an opportunity to re-clarify the purpose of the Board committees and to help the Board to do its work and focus on its strategic agenda. Going forward the Board committees would be expected to support delivery of the Five Year Forward View.

	Contained within the report were the specific terms of reference for each Board committee, recommendations for changes to the Standing Financial Instructions (SFIs) and overall Board delegations that had been incorporated into the terms of reference of the Board Committees. Members of the Board were also asked to note that further minor changes to the proposed SFIs and delegations that were not incorporated into the paper would need to be finalised after the meeting. The Chairman asked the Board to note the proposed Committee structure was entirely convergent with the work undertaken on Board effectiveness. It was also a matter of note that Board Committees represented an extension of the Board and its responsibilities and, therefore, the business conducted by Board Committees represented Board rather than Executive work. In discussion the Board reinforced the importance of avoiding duplication across the Committees whilst also ensuring their work was joined-up. In that regard: • There would be some cross representation across the committees. • The Chairman would arrange regular meetings with all Chairs of Board committees in order to cross reference agendas and major pieces of business. • Each committee agenda and papers would be available and accessible to all members of the Board, and Non-Executive members would be entitled to attend any Board Committee. • The Board would continue to receive reports from the Chairs of its Committees. It was also agreed that matters discussed at Board Committees should not necessarily preclude further consideration at the Board. **The Board approved the recommendations and gave delegated authority for final amendments to be made by the Executive Team in relation to the financial delegations included within the Standing Financial Instructions.**
80/14	**Board committee feedback**
	Feedback from recent meetings was received by the Board from the Chairs of the following committees: • Audit and Risk assurance • CCG Assurance and Development • Efficiency Controls • Finance and Investment **The Board noted the reports.**

81/14	**Quality and Clinical Risk**
	The Chairman welcomed Professor Sir Cyril Chantler, Chair of the Quality and Clinical Risk Committee, to the meeting. Professor Chantler drew attention to a seminar and subsequent conversation about the NHS Outcomes Framework prior to the September meeting of the Committee. In his view the NHS Outcomes Framework was an excellent foundation for judging and improving quality in the NHS. The seminar and subsequent conversation at the meeting in September had focused on Domain One and it was proposed a further meeting in December would focus on Domain Two. In his report Sir Cyril drew attention to the unique potential in the NHS to measure outcomes per pound spent. Outcomes in England could be further improved and a sustainable health service required both an improvement in preventable mortality and in healthy behaviours. The Board thanked Professor Chantler for his report which illustrated how the five Domains were central to NHS England's mandated obligations, showed how the Outcomes Framework could support contractual and payment process, and served to align the goals of all those staff working within the NHS. In the light of changes to the Board Committee structure, Professor Sir John Burn asked Professor Chantler for his view on whether the new committee structure would address the points he had raised in relation to the Outcomes Framework, Professor Chantler reinforcing the recommendations of the restructure by explaining that the Outcomes Framework should be an Executive concern. On behalf of the Board the Chairman expressed his thanks and appreciation for the work Sir Cyril had undertaken over the past year.
82/14	**Any other business**
	On behalf of the Board the Chairman expressed his thanks and best wishes to Mr Jon Schick, who would be leaving NHS England after two years as Board Secretary. The next meetings would be held in London on 17 December 2014.

Representatives of the press and members of the public were asked to withdraw from the remainder of the meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest. (Section 1 (2) Public Bodies Admission to Meetings Act 1960)