

BOARD MEETING HELD IN PRIVATE

Date/Time Friday, 21 July 2017 – 13:00 to 14:00
 Location Room 102A, Skipton House, London

MINUTES

RECORD OF MEETING

Welcome and Introduction

- i. There were no apologies for absence.
- ii. There were no declarations of interest, over and above those held on record.

1. Review of the minutes of the meeting held on 9 February 2017

- 1.1 The minutes of the meeting held on 25 May 2017 were approved as an accurate record. There were no matters arising.

2. PrEP Drug Procurement

- 2.2 Following the Court of Appeal ruling in November 2016 that NHS England had the power, but not the obligation to fund PrEP for HIV prevention intervention, NHS England and Public Health England announced in December 2016 a large scale clinical trial. The formal procurement was launched in late May 2017 with a PrEP IMPACT Trial start date of August 2017. Six bids were made, although the branded supplier did not submit a bid.
- 2.3 The Board discussed the risks and benefit of the trial, and concluded that the trial should proceed, and that in principle the lowest bid should be accepted.

3. ABPI Judicial Review of NICE budget impact processes

- 3.1 On 1 April 2017, changes to NICE technology appraisal were introduced in relation to its budget threshold and QALY thresholds.
- 3.2 ABPI has begun legal action against NICE, citing NHS England as an interested party.
- 3.3 It is not anticipated that the matter will progress until after the summer recess. NHS England has responded in support of the NICE position.
- 3.4 The Board discussed and noted the update.

4. The 2016-17 Strategic Human Resources and Remuneration Committee (SHRRC) Annual Report

- 4.1 The Board reviewed and noted the update.

5. Approval of the NHS England staff engagement report

- 5.1 The Board received the staff engagement report noting our employee engagement score had improved further to 75%, a rise of 10% over the past three years. NHS England scores now compare favourably with both the wider NHS and the Department of Health. NHS England will continue to address perceived bullying and harassment and discrimination in the workplace. The Strategic HR Committee will review the results in detail.
- 5.2 Board members were reminded of the Everyone Counts Ceremony taking place 26 July 2017.

6. Any other business

6.1 Governance Matters

- 6.1.1 The Board supported the request to delegate the responsibility to sign off all complaint responses to Steve Verdon, Director of Commissioning with immediate effect. This will require an amendment to the scheme of delegation.
- 6.1.2 The Board supported the request to amend the Scheme of Delegation to allow the Chief Financial Officer to delegate his responsibilities, during periods of planned absence, to nominated deputies.

6.2 Community Pharmacy

- 6.2.1 Paul Baumann informed the Board that there was a routine community pharmacy rebate due. The Secretary of State had agreed with the relevant industry bodies that a [REDACTED] overpayment in respect of 2015/16 would be phased over a twelve month period beginning in August 2017, resulting in a benefit [REDACTED] in the current financial year.
- 6.2.2 This had not been anticipated in commissioners' operational plans for 2017/18 and therefore presented an opportunity to offset significant pressures already evident in the financial projections for the year. Paul reminded the Board that the operational plans for the NHS showed a £496m deficit - entirely within provider plans - and that risks in both commissioner and provider plans significantly exceeded the system reserve currently set aside. More specifically, the level of individual CCG deficits had prevented the creation of the £200m reserve anticipated from underutilisation of the £400m drawdown available within the commissioning allocations agreed by the Board in December 2015. It was, therefore, essential that the [REDACTED] in-year benefit of the CP adjustment was deployed in full to improve the financial performance of the commissioning system.
- 6.2.3 Under these specific circumstances the Board was invited to consider and approve a proposal whereby:
- the NHS Business Services Authority, as the body which administers CP payments on behalf of the NHS, would charge CCGs the relevant medicine prices prior to the CP adjustment outlined above (technically this would take the form of apportioning dispensing fees to CCGs to eliminate the benefit of the lower prices);
 - the funds created by this adjustment - expected to amount to ca [REDACTED] per month - would be passed to NHS England to be held during the year as part of the system reserve;
 - this reserve would be returned to individual CCGs at the end of the year on condition that:
 - their financial performance was in line with or better than their control totals;
 - they had fully delivered the required 0.5% system reserve (if required by NHS England to offset risks arising across the NHS as set out in the Planning Guidance for 2017/19) and
 - they committed to hold the benefit of this additional funding as additional underspend within their year-end accounts.
- 6.2.4 The combined impact of these measures would be to restore [REDACTED] of the intended system reserve in a year where this was highly likely to be required, while also creating an additional financial incentive for CCGs to meet their financial commitments in terms of both control totals and risk reserves. If approved by the Board, this approach would be executed in a transparent manner, with the rationale set out in a letter to CCG leaders immediately and detailed operational instructions following shortly thereafter.

6.2.5 The Board discussed the proposals in depth, recognising that this was a departure from normal practice necessitated by the challenging financial circumstances facing the NHS in the current year. The Board reached the following conclusions:

- This was a proportionate and necessary step, but one which would require clear and immediate communication to CCGs and other stakeholders followed by effective engagement with CCG leadership in the development of detailed implementation arrangements.
- In the context of a discussion of the risks relating to this proposal, the Chair summarised the legal advice obtained [REDACTED] and the Board supported his view that the proposed action did not entail an inappropriate level of legal risk. Paul Baumann was also asked to liaise with the National Audit Office with regard to implementation of the proposals.
- The Board asked for details of the other options considered and agreed that it would not be appropriate to pursue adjustments to allocations or control totals as an alternative mechanism to create the financial improvement required. The Board also agreed that the alternative of allowing the benefit to flow into routine CCG expenditure without the proposed intervention would not fulfil the objective of securing the full [REDACTED] impact on the financial position of the NHS in a year where this was likely to be essential.

6.2.6 The Board approved the proposal on that basis.

Agreed as an Accurate Record of the Meeting	
Date:	
Signature:	
Name:	Professor Sir Malcolm Grant
Title:	NHS England Chairman

Members:

Professor Sir Malcolm Grant	Chair
Simon Stevens	Chief Executive Officer (CEO)
David Roberts	Vice Chair and Chair of Commissioning Committee
Lord Victor Adebawale	Non-Executive Member
Wendy Becker	Non-Executive Member
Professor Sir John Burn	Non-Executive Member
Dame Moira Gibb	Non-Executive Member and Chair of Investment Committee
Noel Gordon	Non-Executive Member and Chair of Specialised Services Commissioning Committee
Michelle Mitchell	Non-Executive Member
Joanne Shaw	Non-Executive Member and Chair of Audit and Risk Assurance Committee
Paul Baumann	Chief Financial Officer (CFO)
Professor Jane Cummings	Chief Nursing Officer (CNO)
Ian Dodge	National Director: Commissioning Strategy (ND:CS)

Professor Sir Bruce Keogh
Matthew Swindells

National Medical Director (NMD)
National Director: Operations & Information (ND:O&I)

Secretariat:

Gemma Reed

Deputy Board Secretary
