MHRA Agency Board

MINUTES OF THE MEETING

16 April 2014

Present:

The Agency Board

Sir Gordon Duff	Chairman of MHRA
Dame Valerie Beral	Non-Executive Director
Mr Martin Hindle	Non-Executive Director
Professor Vincent Lawton	Non-Executive Director
Sir Alex Markham	Non-Executive Director
Professor David Webb	Non-Executive Director - for items 1-10
Mr John Williams	Non-Executive Director

Others in attendance

MHRA executive and supporting officials

Dr Ian Hudson	Chief Executive
Mr Peter Commins	Chief Operating Officer and Finance Director
Ms Rachel Bosworth	Director of Communications
Dr Stephen Inglis	Director of National Institute of Biological Standards and Control
Mr Jonathan Mogford	Director of Policy
Dr June Raine	Director of Vigilance and Risk Management of Medicines Division (VRMM) – for item 5
Name redacted: Section 40 of FOI Act (personal data)	VRMM – for item 5
Dr Siu Ping Lam	Director of Licensing Division (LD) – for item 6
Mr Rob Hemmings	Statistics Unit Manager, LD – for item 6
Dr Dan O'Connor	Medical Assessor, LD – for item 6
Name redacted: Section 40	Head of Expert Committee Support, LD – for item 9
Name redacted: Section 40	Interim Director of Human Resources – for item 10
Name redacted: Section 40	Head of Science Strategy
Mr Aidan McIvor	Secretary to the Agency Board
Name redacted: Section 40	Executive Assistant to the Chairman

Department of Health and Legal Services

Mr Mark Wilson	Legal Services
Name redacted: Section 40	DH sponsor representative

Observer

Professor Janet Darbyshire	Commission on Human Medicines

Item 1: Apologies

1.1 Apologies were received from Professor Barry Furr and Ms Deborah Oakley, Non-Executive Directors, and Mr Dorian Kennedy of the Department of Health.

Item 2: Announcements

2.1 The Chairman welcomed everyone to the meeting, in particular, Dr Stephen Inglis, Director of NIBSC, and Professor Janet Darbyshire, a member of the Commission on Human Medicines, both of whom were attending the meeting as observers. Dr Inglis is a member of the Executive Team, and is listed above under MHRA Executive. He was especially mentioned because of Sissons Report.

2.2 The Chairman announced and welcomed the appointment of Dr Siu Ping Lam as Director of Licensing, following a competitive recruitment exercise. Dr Lam had been the interim Director of Licensing since 21 September 2013. Later on, when Dr Lam attended the discussion of item 6 on earlier access to medicines and adaptive licensing, the Chairman and the Board congratulated Dr Lam on his appointment.

Item 3: Conflicts of interest

3.1 The Chairman asked for any interests to be declared at the beginning of the meeting; none were declared.

Item 4: Minutes of the Agency Board meeting of 16 March 2014

4.1 Subject to an amendment to para 1.1 (apologies received), the draft minutes of the Board meeting of 16 March were adopted.

Matters arising

4.2 Under Matters arising (item 16, para. 16.1): lunchtime lectures by Board members, the Chairman reported that Professor David Webb had generously offered to give the first lecture on 16 June 2014. The title of the lecture will be 'The UK Prescribing Safety Assessment: Underpinning Patient Safety'. Sir Alex Markham, Non-Executive Director, also offered to give a talk on stratified medicines as part of the lecture programme.

4.3 Dr Inglis, Director of NIBSC, said that staff at NIBSC would be very keen to follow any such lecture programme by video-link. Dr Inglis advised that the quality of audio-visual links between NIBSC and the rest of the agency could be improved. The Chairman asked that any such technical problems should be addressed and remedied as a high priority.

DISCUSSION PAPERS (in the order in which the items were taken)

Item 5: Electronic cigarettes: Tobacco Products Directive regime

5.1 Dr June Raine, Director of VRMM, and (name redacted: Section 40) in VRMM, presented a paper on the revised EU Tobacco Products Directive (TPD), which will come into force by May 2016, and what its implications are for the MHRA. In particular, the paper considered the risks and opportunities for the Agency if it were to be requested to become the Competent Authority for regulation of electronic cigarettes (e-cigarettes).

Overview

5.2 The paper gave the background to the TPD and the need for a Competent Authority for e-cigarettes. It explained that one of the Competent Authority's main roles under the TPD was to receive notifications from manufacturers, before marketing, of certain information regarding e-cigarettes. This would include: details of the manufacturer; lists

of ingredients and emissions; toxicological data; nicotine dosing information; descriptions of the components of the product; and a description of the manufacturing process. Although the Competent Authority would be obliged to publish this information, there would be no requirement or powers to assess the data. In addition, manufacturers would have to submit annual sales volume and any adverse events as they occur; however, the Competent Authority would not be mandated to act on this information. Indeed, it was not clear whether the Competent Authority would have any powers to act upon any of this information.

5.3 The paper sought the Board's initial views on the extent to which the Competent Authority's obligations could be seen to fit with the strategic priorities of the Agency, as well as the associated risks, should DH ask the Agency to take on this role. This included the potential for public health gain from strengthening surveillance and safe supply, scientific development from involvement in an innovative sector, the potential for a new revenue stream to support a well-run organisation and service to stakeholders as well as the risks relating to lack of powers, confusion over regulating similar products as medicines and non-medicines, potential for litigation, resource challenges, reputational aspects.

Discussion

5.4 The Chairman thanked Dr Raine (name redacted: Section 40) for an excellent paper. The Chairman then sought the Board's comments, which centred on the following areas:

(a) The medicines regulation – The Board expressed disappointment that the EU chose not to regulate electronic cigarettes under existing medicines regulation, which the Agency could have done readily. The Board thought the proposed framework was unclear and whichever body became the competent authority it would lack the necessary powers and financial means to regulate electronic cigarettes effectively.

(b) Industry stakeholders - The Board advised that the Agency had little or no history of engagement with the tobacco industry, which was in marked contrast to its relationship with the pharmaceutical industry.

(c) Protection of children – The Board asked what measures were in place to protect children from e-cigarettes. (Name redacted: Section 40) advised that the TPD requires e-cigarettes to have child-resistant packaging. A number of Board members advised that nicotine is a poisonous substance, which posed a threat to children and adults, either by way of direct inhalation or through passive smoking. Concern was expressed about the vapours from e-cigarettes, which contain nicotine.

(d) The regulation of e-cigarettes in other jurisdictions – The Board heard smoking e-cigarettes was banned in public places in Wales, and that approach to the control and indeed prohibition of e-cigarettes in public places varies across the EU and beyond. (Name redacted: Section 40) reported that e-cigarettes are banned in a number of states in the U.S.A. and in some countries outside the EU.

(e) Safety issues – The Board asked for clarification about the safety of e-cigarettes. The Board heard about a general lack of safety information about e-cigarettes but also about faulty e-cigarette devices which had caused damage to people and property.

(f) Who should regulate e-cigarettes? – Some Board members thought MHRA had a public health duty to act as the Competent Authority for e-cigarettes and that there would be some synergies with the existing role of the MHRA. There was concern that a less experienced body may not be able to regulate e-cigarettes effectively, which,

in the longer term, would have negative implications for public health in the UK. A number of Board members thought that in the interests of public health the MHRA had a duty to take on this role. Moreover, some Board members thought that the Agency could face reputational risks if it chose not to act as the Competent Authority. Other board members remained more cautious, recognising the real risks attached to taking on this role.

In particular, concerns were expressed that MHRA would have no tools with which to exert any control; that to take on a regulatory role without any recourse to an ability to police what we were doing was simply not feasible. Moreover, it was felt that, at present, MHRA could not undertake the task. To this end, clarification was needed on all of these points.

(g) *Resourcing* – A number of Board members thought that the regulation of e-cigarettes by MHRA could offer the agency a new source of funding. However, it was also recognised that this could be a very resource intensive area and it would be critical to ensure that, should the MHRA be asked to take on this role, work on e-cigarettes didn't distract and divert resources from other mainstream work.

5.5 Having thanked the Board's non-executive directors for their views, the Chairman said he was glad that the Board had had an opportunity for a further discussion of this important issue. The Chairman said that while he recognised the public health imperative for effective regulation of e-cigarettes, a Competent Authority that had responsibility without powers and funding was an undesirable position, and probably not a realistic option. This he concluded was the view of the majority of the Board.

5.6 Dr Hudson said discussions between MHRA and the Department of Health would continue, that the MHRA would remain engaged in the process of ensuring the best outcome is found and that the Board would be kept advised of developments in this area.

Item 6: Early access to medicines and adaptive licensing

6.1 Dr Siu Ping Lam, Director of Licensing; Mr Rob Hemmings, Head of Licensing Division's Statistics Unit; and Dr Dan O'Connor, Expert Medical Assessor in Licensing Division, gave an update on two initiatives, in which MHRA has been heavily involved: the UK Early Access to Medicines Scheme (EAMS) and the EMA's Adaptive licensing. These two initiatives are part of the key strategic activities in the Agency corporate plan within the theme "Bringing innovation and new products speedily and safely to patients".

6.2 The Board heard that both initiatives had been included in the Prime Minister's Strategy for UK Life Sciences, which was launched on 5 December 2011. Both initiatives were also considered by the Expert Group on Innovation in the regulation of healthcare (the report of the group was published on 25th September 2013).

Early Access to Medicines Scheme

6.3 A joint DH & MHRA public consultation ran from July-Oct 2012 on a new 'Early Access to Medicines Scheme'. The scheme was announced on 14 March 2014 and launched by the MHRA on the 7 April 2014. Dr O'Connor explained that the aim is to give patients with life threatening or seriously debilitating conditions access to medicines that do not yet have a marketing authorisation when there is a clear unmet medical need. This UK scheme is voluntary and the opinion from MHRA does not replace the normal licensing procedures for medicines. MHRA is responsible for the scientific aspects of the scheme and the scientific opinion will be provided after a two-step evaluation process, step I, the promising innovative medicine (PIM) designation and step II, the early access

to medicines scientific opinion. The scientific opinion will describe the benefits and risks of the medicine, based on the information submitted to MHRA by an applicant after sufficient data have been gathered (most likely after Phase III clinical studies). The scientific opinion will support the prescriber and patient to make a decision on whether to use the medicine before its licence is approved. The Board noted that the EAMS implementation group had produced over 20 new documents and a dedicated webpage to assist applicants.

Adaptive licensing

6.4 Mr Hemmings went on to explain that adaptive licensing is a European initiative of 'staggered marketing authorisation approval'. Adaptive licensing is proposed to be stepwise learning under conditions of acknowledged uncertainty, with iterative phases of data gathering and regulatory evaluation. It is intended to be a prospectively planned process, starting with the early authorisation of a medicine in a restricted patient population. This is followed by iterative phases of evidence gathering post authorisation and adaptations of the licence to expand access to the medicine to broader patient populations. Adaptive licensing relates to proactive use of existing flexibilities in the EU legislative framework. The aim is to maximise the positive impact of new drugs on public health by balancing timely access for patients to treatments that promise to address serious conditions where there is an unmet need, with the need to provide adequate evolving information on the benefits and harms. The EMA recently launched an adaptive licensing pilot (March 2014) to discuss prospective case studies. The EMA describes the pilot as a prospectively planned, adaptive approach to bringing drugs to market. The MHRA was actively involved in designing the pilot and is fully engaged with the scheme as it evolves.

6.5 The Chairman and Board welcomed warmly the presentations and update, and congratulated Dr Lam and his team on their work in this area.

Item 7: Draft Annual Report – update

7.1 Ms Rachel Bosworth, Director of Communications, gave a progress report on preparations for the draft Annual Report and Accounts. The Board received copies of the current draft Annual Report, which is still subject to further revision. The meeting heard that the Board would receive copies of the final draft version of the Annual Report in advance of the Agency Board / Corporate Executive Team away day on 21 May, when the Board would be asked to formally sign off the draft Annual Report. Rachel Bosworth asked that, if non-executive directors had any comments on the current version of the draft Annual Report, they should be sent directly to herself.

Item 8: draft programme for Agency Board / Corporate Executive Team away day

8.1 Dr Hudson presented a draft programme for the joint Agency Board / Corporate Executive Team away day on 21 May 2014 for the Board's consideration. The Board endorsed the draft programme, which would be centred on Clinical Practice Research Datalink's strategy and a discussion of enhance vigilance.

Item 9: e-working and Board meetings

9.1 The Board considered and agreed to a proposal that all Board meeting papers and ad hoc documents should be made available by way of an easy-to-use portal from 1 September 2014. To help Board members with the transition to e-working, a comprehensive frequently asked questions' pack would be prepared. The Board heard

that the proposed transition to a paperless distribution system would save staff time and resources, as well as ensuring that Board papers would be distributed in a secure manner.

Item 10: Remuneration Committee terms of reference

10.1 The Chairman welcomed (name redacted: Section 40), the new interim Director of Human Resources Division, to the meeting. The Board heard that Ms Booth had joined MHRA in early April. Ms Booth went on to explain that following the adoption of Human Resources sub-committee's terms of reference on 16 March 2014, the Board had asked that a remuneration committee be set up as soon as practicable. The meeting heard that during early April work had begun on preparing draft terms of reference for a remuneration committee.

10.2 The Chairman welcomed the draft the terms of reference, which after consideration, were agreed by the Board. Mr John Williams, non-executive director and member of the HR sub-committee, welcomed (name redacted: Section 40) 's work on the terms of reference and advised that MHRA was in a minority among arms-length-bodies for not having a remuneration committee.

10.3 Expressions of interest were sought from non-executive directors to serve on the new committee. Sir Alex Markham volunteered his services for either the HR sub-committee or the remuneration committee, which was gratefully received by the Chairman. The Chairman also thanked (name redacted: Section 40) for preparing the draft terms of reference so promptly.

STANDING ITEMS

Item 11: CEO's report for March 2014

11.1 Dr Hudson's updates centred on the following areas:

- *Earlier Access to Medicines Scheme* – The Secretary of State announced the new scheme on 14 March, which was then launched on 7 April. The scheme aims to address unmet need on an unlicensed or off-label basis for patients with life-threatening or seriously debilitating conditions without adequate treatment options.

- *Adaptive licensing* – On 19 March, the European Medicines Agency (EMA) launched its call for companies with "live assets" (medicines currently under development) to participate in the EMA's adaptive licensing pilot project.

- *NIBSC Science Review* – Sir Patrick Sissons' report was published on 8 April.

- *Stephenson report* – On the 8 April, the agency published the independent report by Professor Terence Stephenson that makes recommendations about how MHRA can improve its access to clinical advice and engagement with the clinical community to help regulate medical devices.

- *Product issues*: updates were given on Domperidone and N-acetylcysteine, as well as two product recalls.

- *Nicotine Containing Products (NCPs)* – The revised Tobacco Products Directive was approved by the Council of Ministers on 14 March and will come into force

in May 2014. Member States will have two years to transpose the directive into UK law.

- *Dementia Strategy* – the MHRA is contributing to the DH work on dementia and has attended various meetings. These included the inaugural meeting of the international steering group on dementia and the research funders meeting.

- *Patient and Public Expert Advisory Group (PPEAG)* – The PPEAG submitted a paper to the *C*ommission on Human Medicines (CHM) on involving patients in licensing decisions. CHM welcomed the paper and agreed to a pilot project.

- *British Pharmacopeia anniversary* – During March final preparations were made for a series of high profile events to mark the 150th anniversary of the British Pharmacopeia. The various events will take place in April.

- *Patient Safety Alerts* – The joint MHRA / NHS England patient safety alerts on medical devices and medicines were launched on 20 March.

Item 12: Operations and Finance report

12.1 Mr Peter Commins gave the highlights for the first eleven months of the financial year 2013/14. They were:

- MHRA (Regulator) income: for the year to end of February 2014 was at £92.1m, which was 2% above budget.
- NIBSC operational income: for the year to end of February 2014 was at £16.2m, which was £3.3m (17%) above budget.
- CPRD income for the year to the end of February 2014 was at £7.0m, which was £3.5m (34%) below budget.
- Operating income for the Agency was £131.4m, which is £0.7m above budget.
- Total operating costs at £111.3m were £9.6m below budget.
- February 2014 cash report: the bank balance at the end of February was £166.8m.
- Capital expenditure was £11.9m out of the full year budget of £19.7m.
- Total Product Licensing deferred revenue at the end of January was £14.5m.
- The number of full-time equivalents at the end of February 2014 was 1,213, with 101 short-term contracts and 36 non-payroll employees.

12.2 Peter Commins went on to report that search consultants have been commissioned to help recruit directors of the Clinical Practice Research DataLink and Human Resources Division.

Item 13: Minutes of the Corporate Executive Team (CET) meeting of 11 March 2014

13.1 The minutes of the CET meeting of 11 March 2014 were noted.

Item 14: Non-Executive Directors' (NEDs) updates

14.1 Prior to leaving the Board meeting at the end of item 10, Professor David Webb gave his NED's update. Professor Webb reported that he and a number of clinical pharmacology students from Edinburgh University had been invited by Professor Stuart Ralston, Chair of CHM, to attend a CHM meeting. Professor Webb went on to thank Dr Ian Hudson and Dr June Raine for agreeing to attend a clinical pharmacology training day in January 2015.

14.2 The following updates were given by other NEDs:

- Mr Martin Hindle reported that he had attended a meeting on conflicts of interest earlier in the day, which was chaired by Jonathan Mogford.

- Sir Alex Markham reported that he has been asked by Professor Munir Primohamed of the University of Liverpool to give a talk on stratified medicines.

- Professor Vincent Lawton reported that Professor David Webb had offered to serve as a member of the Agency's Audit and Risk Assurance Committee.

- Mr John Williams reported that he, along with other non-executive directors, had attended a meeting on senior civil servants' pay at the DH on 16 March.

Item 15: Any Other Business (AOB)

15.1 The Chairman reported that, following his resignation on 27 March, DH has begun work to find his successor. Sir Gordon's resignation followed news of his appointment as Principal of St Hilda's College, Oxford.

Date of next Board meeting: Agency Board / Corporate Executive Team away day on 21 May 2014.

Aidan McIvor
Head of Directorate