

**DRAFT MINUTES OF A MEETING OF THE MONITOR BOARD HELD ON
WEDNESDAY 30 SEPTEMBER 2015 AT 1.45 AT WELLINGTON HOUSE, 133-155
WATERLOO ROAD, LONDON SE1 8UG – SUBJECT TO APPROVAL AT THE
MEETING OF THE BOARD ON 28 OCTOBER 2015**

Present:

Ed Smith, Chairman
David Bennett, Chief Executive
Lord Ara Darzi, Non Executive Director (until item 16)
Stephen Hay, Managing Director of Provider Regulation
Dr Timothy Heymann, Non Executive Director
Heather Lawrence, Non Executive Director
Adrian Masters, Managing Director of Sector Development
Iain Osborne, Non Executive Director
Keith Palmer, Deputy Chairman, Non Executive Director
Sigurd Reinton, Non Executive Director

In attendance:

Helen Buckingham, Chief of Staff
John Curnow, Project Director (Economics) (from item 15)
Miranda Carter, Executive Director of Provider Appraisal
Catherine Davies, Executive Director of Co-operation and Competition
Jason Dorsett, Finance, Reporting and Risk Director
Philippa Harding, Director of Operations and Performance
Fiona Knight, Executive Director of Organisational Transformation
Toby Lambert, Director of Pricing
Hugo Mascie-Taylor, Medical Director (Executive Director of Patient and Clinical Engagement)
Jeremy Mooney, Executive Director of Strategic Communications
Kate Moore, Executive Director of Legal Services
Adam Sewell-Jones, Executive Director of Provider Sustainability
Peter Sinden, Chief Information Officer
Georgia Toutziari, Governance Manager
Chris Walters, Chief Economist (until item 15)

Executive officers attended the meeting as detailed under specific agenda items below.

1. Welcome and apologies

1.1 Apologies for absence had been received from Baroness Joan Hanham (Non Executive Director).

1.2 The Chairman thanked Keith Palmer for his service as a Acting Chairman, and welcomed Lord Ara Darzi (Non Executive Director) to his first Board meeting. It was noted that his appointment as Non Executive Director of Monitor had been effective from 1 August 2015.

2. Declarations of interest

2.1 No interests were declared.

3. Minutes and matters arising from the meeting held on Wednesday 29 July 2015 (BM/15/81)

3.1 The minutes of the Board meeting held on 29 July 2015 were approved and the matters arising noted. Board members confirmed that they were content with the proposed treatment of information items on Board meeting agendas (only unstarred items would be discussed). The Chairman notified the Board that he had agreed that items six and nine of the agenda would be unstarred for discussion.

3.2 In relation to an outstanding action regarding the Pricing Update (ref: BM/15/33 para 5.4), the Board emphasised the need for the arrangement of a Board workshop on the co-ordinated working between Monitor and NHS England on the longer term strategy for payment systems prior to the next meeting of the Board on 28 October 2015.

ACTION: TL

3.3 In relation to the outstanding action regarding progress in establishing the Patient and Clinical Engagement directorate (ref: BM/15/46 para 8.4), it was requested that an update be submitted to the next meeting of the Board.

ACTION: HMT

4. Provider Appraisal Update (BM/15/82)

4.1 The Board noted the report which provided information about significant developments with regard to the work being undertaken by Monitor's Provider Appraisal directorate since the last meeting of the Board.

4.2 Board members noted the reasons for the deferral of the application by Royal Liverpool and Broadgreen University Hospitals NHS Trust's application for NHS Foundation Trust status for 12 months.

5. Pricing Update (BM/15/83)

5.1 The Board noted the report which provided an update on the key issues being addressed by the Pricing team in the past month.

6. Executive Report (BM/15/84)

- 6.1 The Board noted the report which summarised key developments at Monitor since the Board meeting held on 29 July 2015.

7. Report of the Remuneration Committee meeting on 3 September 2015 (BM/15/85)

- 7.1 The Board noted the report which provided information about the key issues considered by the Remuneration Committee at its meeting on 3 September 2015.

8. Report of the Audit and Risk Committee meeting on 1 July 2015 (BM/15/75)

- 8.1 The Board noted the report which provided information about the meeting of the Audit and Risk Committee meeting on 17 September 2015.

9. Report of the Technology Assurance Committee meeting on 23 September 2015 (BM/15/87)

- 9.1 The Board welcomed the report which provided information about the key issues considered by the Technology Assurance Committee at its meeting on 23 September 2015.
- 9.2 Board members noted the work being done to prepare for information technology (IT) integration with four other bodies including the NHS Trust Development Authority (NHS TDA) and the positive developments on the relationship with the Health and Social Care Information Centre. The Chair noted that technology was fundamental to improvement across the sector. It was also noted that Monitor's Chief Information Officer would take on a significant role in the IT and Integrated Information Systems Programme Steering Group during this item of substantial organisational change for Monitor. Particular consideration was given to the importance of planning the investment needed to facilitate successful integration.

10. Progress with establishment of NHS Improvement (BM/15/88)

- 10.1 Helen Buckingham noted the report which provided the Board with information about progress with the establishment of NHS Improvement which would bring together Monitor, the NHS TDA, the Patient Safety function from NHS England, the Advancing Change Team from NHS Improving Quality, and the Intensive Support Teams from NHS Interim Management and Support to make a single integrated enterprise and a health sector regulator.
- 10.2 A number of comments were provided with regard to the proposed scope of work required for establishing NHS Improvement and the timetable within which it was

expected to be delivered. The importance of the engagement of both external and internal stakeholders in the governance and design process of NHS Improvement was noted.

11. Questions and comments from the public (oral item)

11.1 No members of the public were present.

12. Private session - resolution (oral item)

12.1 The Chair moved a resolution in order to move into private session to consider private items of business.

RESOLVED:

12.2 The Board resolved that representatives of the press and other members of the public should be excluded from the meeting, having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest.

13. Co-operation and Competition Update (BM/15/89(P))

13.1 Board members noted the report which provided information about significant developments with regard to the work of the Co-operation and Competition directorate since the meeting of the Board on 29 July 2015.

14. Quarterly report on the performance of the NHS foundation trust sector: 3 months ended 30 June 2015 (BM/15/90(P))

Yin Shi (Head of Sector Reporting) joined the meeting for the consideration of this item.

14.1 The Board noted the report which set out the Q1 2015/16 performance of the 151 NHS foundation trusts (NHSFTs) operating during this period.

14.2 It was noted that the publication of the Q1 figures, which would normally have taken place in advance of the Board meeting, had been postponed to allow Monitor and the NHS TDA to release figures relating to all NHS trusts and NHSFTs at the same time.

14.3 Consideration was given to the severe financial and operational challenges faced by the sector. It was noted that Monitor would continue to work with its national partners to provide intensive support to mitigate risks that NHSFTs faced. Particular consideration was given to recent Monitor initiatives that had been implemented to address the sector's financial challenge. Monitor's longer term strategy with regard to this issue was considered.

15. Provider Regulation Update (BM/15/91(P))

15.1 Stephen Hay presented the report which provided a summary of the NHSFTs subject to enforcement action at 8 September 2015. The report also provided a summary on the development of nursing and locum agency controls and an overview of the additional initiatives being implemented to reduce the forecast deficit for the NHSFT sector. A further oral update was provided with regard to the following NHSFTs:

- Cambridge University Hospitals NHS Foundation Trust;
- Heart of England NHS Foundation Trust;
- Sherwood Forest Hospitals NHS Foundation Trust; and
- Medway NHS Foundation Trust.

16. Chief Executive's update (oral item)

16.1 David Bennett provided the Board with an oral update on Monitor's involvement with the Comprehensive Spending Review and progress on setting the 2015/16 National Tariff. The Chief Executive also noted that Monitor staff remained focussed on their regulatory tasks during the transitional period encountered in the move to NHS Improvement.

17. Chairman's report (oral item)

17.1 Ed Smith provided the Board with an oral update on progress on the appointment of the Chief Executive of NHS Improvement, and on the arrangements for future Board meetings.

18. Q1 2015/16

i) Risk Report (BM/15/92(i)(P))

18.1 The Board noted the report which provided an update on Monitor's 'Top Risk' profile as at the end of Q1 2015/16. It also provided an update on current risk management highlights and forthcoming priorities.

ii) Performance Report (BM/15/92(ii)(P))

18.2 Board members noted the report which provided information about the status of the 2015/16 Business Plan actions, key performance indicators and key achievements.

19. Application for NHS foundation trust status – Oxford University Hospitals NHS Trust (BM/15/93(P))

Martin Smith (Director – Provider Appraisal) joined the meeting for the consideration of this item

19.1 The Board considered the application before it to become an NHSFT pursuant to the National Health Service Act 2006 (as amended). In advance of the meeting, the Board had received and read a detailed briefing pack on the applicant.

19.2 The Board agreed that, unless an issue was specifically raised on the basis of a cause for concern, which would have been highlighted in the briefing pack, it would be assumed that:

- (a) the applicant's constitution was compliant with Schedule 7 to the 2006 Act and otherwise appropriate;
- (b) the Directors and Governors of the applicant had been appointed in line with the constitution;
- (c) the applicant had taken steps to ensure representative membership;
- (d) all elections were compliant;
- (e) all statutory consultations had been held; and
- (f) the applicant would be able to provide mandatory goods and services.

19.3 The Provider Appraisal team presented the Board with the background to Oxford University Hospitals NHS Trust, a £916m teaching hospital providing acute and specialist services, and the key issues relevant to its application.

19.4 The Chair invited the Board and Executive Committee members to present their views on the proposed authorisation. Consideration was given to the Trust's financial position, its reported cost improvement programme (CIP) achievements to date, the feasibility of its projected CIP delivery and of its action plans to support and ensure compliance with access and outcome targets. The Trust's projected cash position and relative performance in the context of the challenging operating environment facing the provider sector was discussed. The significance of Monitor's role in helping and supporting the improvement of trusts by its assessment process was considered.

RESOLVED:

19.5 The Board resolved that:

- (a) Oxford University Hospitals NHS Trust be authorised as an NHS Foundation Trust from 1 October 2015; and
- (b) that a side letter be sent to the Trust requiring it to improve its finances and ensure patients received quality care which offered good value for money.

20. South Devon Healthcare NHS Foundation Trust proposed acquisition of Torbay and Southern Devon Health and Care NHS Trust: Grant of Acquisition (BM/15/934P)

David Hoppe (Director – Provider Appraisal) and Mark Ward (Senior Manager – Provider Appraisal) joined the meeting for the consideration of this item.

20.1 Board members considered the report which noted that Provider Appraisal Executive had approved an amber risk rating of the proposed acquisition of Torbay and Southern Devon Health and Care NHS Trust by Southern Devon Health and Care NHS Foundation Trust. The Board was asked to determine whether or not to approve a joint application from the two trusts to grant the acquisition.

20.2 The Board was provided with an oral update to confirm that all necessary documentation for the approval of the transaction had been satisfactorily received.

RESOLVED:

20.3 The Board resolved to:

- a) approve the joint application for the acquisition of Torbay and Southern Devon Health and Care NHS Trust by Southern Devon Health and Care NHS Foundation Trust; and
- b) agree that Monitor did not exercise its statutory power to make an order to transfer the staff of Torbay and Southern Devon Health and Care NHS Trust to Southern Devon Health and Care NHS Foundation Trust.

21. Any other business

21.1 Board members was notified of the two recent site visits by Sigurd Reinton (Non Executive Director), and Catherine Pollard (Pricing Development Director), to Aintree University NHS Foundation Trust on 18 April and Sigurd Reinton and Jeremy Mooney to Yeovil District Hospital NHS Foundation Trust on 21 September.

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