

**DRAFT MINUTES OF A MEETING OF THE MONITOR BOARD HELD ON
WEDNESDAY 25 NOVEMBER 2015 AT 10.00 AT WELLINGTON HOUSE, 133-155
WATERLOO ROAD, LONDON SE1 8UG – SUBJECT TO APPROVAL AT THE
MEETING OF THE BOARD ON 17 DECEMBER 2015**

Present:

Ed Smith, Chairman
Lord Ara Darzi, Non Executive Director
Stephen Hay, Managing Director of Provider Regulation
Dr Timothy Heymann, Non Executive Director
Heather Lawrence, Non Executive Director
Jim Mackey, Chief Executive
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
Miranda Carter, Executive Director of Provider Appraisal
Lord Patrick Carter, Special Adviser
Jessica Dahlstrom, Head of Governance
Catherine Davies, Executive Director of Co-operation and Competition
Jason Dorsett, Finance, Reporting and Risk Director
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
Peter Sinden, Chief Information Officer
Chris Walters, Chief Economist

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

1. Welcome and apologies (oral item)

Apologies for absence had been received from Baroness Joan Hanham (Non Executive Director), Fiona Knight, (Executive Director of Organisational Transformation), and Adam Sewell-Jones (Executive Director of Provider Sustainability).

2. Declarations of interest (oral item)

2.1 No interests were declared.

3. Minutes and matters arising from the meeting held on Wednesday 30 September 2015 (BM/15/104)

3.1 The minutes of the Board meeting held on 28 October 2015 were approved and the matters arising noted.

3.2 The Chairman welcomed the new Chief Executive, Special Adviser and Head of Governance.

3.3 The Chairman notified the Board that he had agreed that item 11 of the agenda would be unstarred for discussion.

4. Performance of the NHS Foundation Trust sector Q2 2015/16 (BM/15/105)

4.1 The Board noted the report which provided the findings from a review of the Q2 2015/16 performance of the 151 licensed NHS Foundation Trusts (NHSFTs) operating during this period.

4.2 The Finance, Reporting and Risk Director highlighted key findings. The financial performance of NHSFTs was impacted significantly by spend on agency staff. Mitigating actions, including the introduction of controls on agency spending, were noted.

4.3 The importance of addressing the underlying issues of which worsening financial and operational performance were symptoms was emphasised. Underlying issues included rising demand, workforce and technology issues, and the interaction with social care. It was noted that to address these issues, a system-wide approach was required.

4.4 The importance of Monitor working with other national bodies, including NHS England and the CQC, on these underlying issues was emphasised.

5. Executive Report (BM/15/108)

5.1 The Board noted the report which summarised key developments at Monitor since the Board meeting held on 28 October 2015.

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

6.1 The members of the public did not ask questions or make comments.

7. Private session - resolution (oral item)

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

RESOLVED:

- 7.2 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.

8. Co-operation and Competition Update (BM/15/110(P))

- 8.1 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 held on 28 October 2015.
- 8.2 The Executive Director of Co-operation and Competition provided an update on the investigation into the commissioning of elective care services in the North East London Treatment Centre by Barking and Dagenham CCG, Havering CCG, Redbridge CCG and Waltham Forest CCG. It was noted a report on this investigation would come to the Board meeting on 17 December 2015 for decision.

9. Provider Regulation Update (BM/15/111(P))

- 9.1 The Managing Director of Provider Regulation introduced the report, which provided a summary of the activity within the Provider Regulation directorate since the meeting of the Board held on 28 October 2015.
- 9.2 An oral update was provided on Colchester Hospital University NHS Foundation Trust and Sherwood Forest Hospitals NHS Foundation Trust.
- 9.3 Board members discussed the interaction with the Competition and Markets Authority (CMA) in the context of local reconfigurations, and noted that a proactive and constructive relationship was in place and that discussions had been pragmatic.
- 9.4 Board members welcomed the new format of the Provider Regulation Update papers. Further comments on the format could be submitted to the Managing Director of Provider Regulation.

10. Chief Executive's Update (oral item)

- 10.1 The Chief Executive presented his immediate priorities for Monitor, which included supporting providers through the winter, as well as ensuring an appropriate tariff was set for 2016/17.

10.2 In the medium term, the emphasis would be on building NHS Improvement as an organisation focused on supporting providers, while ensuring the autonomy and accountability of providers was maintained. The support for providers would be aimed at addressing the underlying causes of poor financial and operational performance, including dealing with rising demand, workforce and technology issues, and the interaction with social care services.

10.3 The Board discussed areas where NHS Improvement could have a significant impact. The importance of resolving workforce issues was emphasised, and it was noted that NHS Improvement would work closely with Health Education England in this area.

11. Chairman's Report (oral item)

11.1 The Chairman and the Executive Director of Provider Appraisal provided an update on the approach to those NHS trusts currently applying for NHS foundation trust status, and those that had yet to make an application.

11.2 The Chairman updated the Board on his use of the emergency powers set out in rules of procedure paragraph 4.10 in relation to the agency price caps.

12. Integration Update (BM/15/112(P))

12.1 The Chief of Staff introduced the report. The Board requested that a significant proportion of the Board meeting on 17 December 2015 would be dedicated to the integration programme. A draft vision and purpose for NHS Improvement would be discussed at this meeting.

13. Q2 Risk and Performance Report 2015/16 (BM/15/113(P))

13.1 The Board noted the report, which provided early thinking on risk management and performance issues for NHS Improvement, as well as an update on Monitor's top risks, key performance indicators and business plan actions.

13.2 The Audit and Risk Committee had reviewed the report. The Board noted that the process for risk and performance management would be revised as part of the transition to NHS Improvement. It was noted that one of these revisions would be a clearer reflection in the risk register of the degree of control Monitor had over different risks. The Board noted that a revised approach would be presented at the Board meeting on 28 January 2016.

14. Spending Review (oral item)

14.1 The Chief Executive provided an oral update on the 2015 Spending Review, the official announcement of which took place on the same day as the Board meeting

(25 November 2015), but some information was already available. The Board noted this information.

15. National tariff

Igor Popovic (Pricing Delivery Director), Zephan Trent (Deputy Director – CoE Intelligence & Analytics) and Simon Rogers (Legal Director) joined the meeting for the consideration of item.

i) Implications of the 2016/17 scenarios for the sector financial position (BM/15/114(i)(P))

15.1 The Board noted the report which provided an overview of the potential scenarios for the sector financial position, depending on what was yet to be agreed on the two key inputs into the 2016/17 tariff, namely the efficiency factor and the cost base. The importance of ensuring the efficiency 'ask' for providers was realistic was emphasised.

ii) Specialist services (BM/15/114(ii)(P))

15.2 Board members noted the report which set out transition options for specialist top-ups, and proposals for the specialist services marginal rate.

RESOLVED:

15.3 The Board delegated authority to the Chairman and Chief Executive to make outstanding decisions in relation to the national tariff should this be required ahead of the Board meeting on 17 December 2015.

15.4 The Board requested that any decisions made in this respect would be reported back to the Board at the meeting on 17 December 2015.

16. Any other business

16.1 There was no other business.

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