

**MINUTES OF A MEETING OF THE MONITOR BOARD HELD ON WEDNESDAY
25 JUNE 2014 AT 1.30 AT WELLINGTON HOUSE, 133-155 WATERLOO ROAD,
LONDON SE1 8UG**

Present:

Joan Hanham, Chairman
David Bennett, Chief Executive
Stephen Hay, Managing Director of Provider Regulation
Heather Lawrence, Non Executive Director (until item 14)
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
John Curnow, Project Director (Economics)
Catherine Davies, Executive Director of Co-operation and Competition
Jason Dorsett, Finance, Reporting and Risk Director
Philippa Harding, Board Secretary
Toby Lambert, Director of Strategy and Policy
Ric Marshall, Director of Pricing
Sue Meeson, Executive Director of Strategic Communications
Kate Moore, Executive Director of Legal Services

Two members of the public were in attendance for the public session of the meeting.

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 Fiona Knight (Executive Director of Organisation Transformation) and Hugo Mascie-Taylor (Medical Director/Executive Director of Patient and Clinical Engagements).

2. Declarations of interest

2.1 No interests were declared.

3. Minutes and matters arising from the meeting held on 28 May 2014 (BM/14/64)

- 3.1 The minutes of the meeting held on 28 May 2014 were approved and the matters arising noted.

4. Mid Staffordshire NHS Foundation Trust Public Inquiry: The Francis Inquiry; The Francis Report (February 2013): update on workstream actions (BM/14/65)

Nick Ville (Project Director, Policy) was in attendance during the consideration of this item.

- 4.1 The Board noted the report which provided information about the progress being made by Monitor with regard to addressing the recommendations of Robert Francis QC that were pertinent to Monitor and its regulatory remit. Very good progress had been made in advancing and fully implementing the specific and detailed actions under each workstream. Almost all actions which were as yet incomplete (and so were amber or amber/green rated) had external dependencies, although Monitor was deploying all reasonable influence in these them to progress matters to a satisfactory conclusion. This work was ongoing.

5. Framework Agreement (BM/14/66)

- 5.1 The Board considered the report which presented the proposed Framework Agreement between Monitor and the Department of Health (DH) to replace the memorandum of understanding signed by the two organisations in 2014, as required by Managing Public Money.
- 5.2 Some of the details of the Framework Agreement were discussed. Particular attention was paid to the role of Monitor's sponsorship team within DH. Board members noted the importance of a good quality sponsorship team. It was also noted that a good relationship between an Arms Length Body, such as Monitor, and its sponsorship team did not rely upon its statutory basis alone. It was reported that DH was concerned to ensure that its sponsorship teams worked well and that, in this context, Monitor had been asked to share its experience of working with its sponsorship team, in order to foster learning from this across the department.

RESOLVED:

- 5.3 The Board resolved that the proposed Framework Agreement between DH and Monitor should be agreed.

6. Co-operation and Competition Update (BM/14/67)

- 6.1 The Board noted the report which provided information about the significant developments with regard to the work of the Co-operation and Competition directorate in May 2014.
- 6.2 It was noted that the Competition and Markets Authority (CMA) had cleared the proposed acquisition of Heatherwood and Wexham Park NHS Foundation Trust by Frimley Park Hospital NHS Foundation Trust. Board members were provided with an update on the further work that Monitor was required to undertake with regard to this transaction.

7. Provider Appraisal Update (BM/14/68)

- 7.1 The Board considered the report which provided information about the significant developments with regard to the work being undertaken by Monitor's Provider Appraisal directorate.
- 7.2 An update was provided to Board members in relation to the "Well Led" framework. The manner in which the Care Quality Commission (CQC) and Monitor's processes interacted within the framework was discussed. Board members noted the value of a common framework in the alignment of regulatory processes and reduction of regulatory burden. In discussion of what Monitor would consider in determining whether an aspirant NHS foundation trust (NHSFT) was well led, Board members were informed of the organisation's approach to testing strategic planning. It was emphasised that both aspirant NHSFTs' budgetary planning ability and strategic development capabilities should be tested in order to ensure that they were able to manage change appropriately.

8. Executive Report (BM/14/69)

- 8.1 Board members considered the report which summarised key developments at Monitor since the Board meeting held on 28 May 2014.
- 8.2 An update was provided with regard to Monitor's involvement in the "sign up to safety" campaign. Board members noted the value of looking to the airline industry for lessons to be learned in relation to safety approaches. The need for a "no blame" culture to encourage honest and regular reporting of safety breaches was emphasised. Once there was systematic reporting of safety breaches clear frameworks and processes could be established to ensure that action was taken to avoid such instances in the future.
- 8.3 In noting that Monitor was about to undertake a short review of the provider licence, Board members requested that information about how the licence was working be submitted for consideration at a Board meeting when the review was completed.

ACTION: TL

9. Monitor's Information Strategy (BM/14/70)

Neil Stutchbury (Knowledge Management Director) joined the meeting for the consideration of this item.

9.1 Neil Stutchbury presented the report which proposed the Information Strategy to be adopted by Monitor in order to develop its information capability to underpin its regulatory responsibilities. It was noted that the Technology Assurance Committee had reviewed the proposed strategy in depth and was content that it was fit for purpose and ready to be submitted to the Board for approval.

9.2 Board members discussed the programmes of work, many of which built on existing investments and work in progress, that would achieve the proposed strategy. Particular consideration was given to the establishment of a fully skilled team with good processes to implement the Information Strategy. Board members emphasised the importance of being able to coherently explain the efficiencies that would be available to Monitor as a result of the changes envisioned in its Information Strategy. It was noted that these would not necessarily be realised in the form of a smaller Knowledge and Information Management team, rather it was anticipated that they would impact across the organisation. A benefits realisation plan should be developed to ensure that all of the anticipated efficiencies were implemented.

9.3 The nature of the data to be incorporated in the information strategy was discussed. It was noted that Monitor would be receiving data from different sources and distilling them into a consistent and coherent framework. There would be challenges with regard to the quality and consistency of such data, and Board members discussed Monitor's role with regard to the improvement of data quality across the health care sector. In this context consideration was given to the role of the Health and Social Care Information Centre and Monitor's relationship with this body.

9.4 With regard to the significant risks and issues identified within the report and the proposed actions to mitigate these, Board members confirmed that they considered them to be appropriate.

RESOLVED:

9.5 The Board resolved that the proposed Information Strategy should be adopted, as consistent with Monitor's objectives within the proposed timeline.

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

10.1 Two members of the public were present. Comments were made with regard to the Board's discussion of the approach to be taken to safety and the value of a "no blame" culture. The perceived burden of regulation and the importance of adding value in this context were emphasised.

11. Private session - resolution (oral item)

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

RESOLVED:

11.2 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.

12. Chief Executive's update (oral item)

12.1 David Bennett provided the Board with an oral update on his involvement in the activities of Monitor's partners.

13. Provider Regulation Update (BM/14/71(P))

Katherine Cawley (Enforcement Director) was in attendance for the consideration of this item.

13.1 Board members noted the paper which provided an overview of the NHSFTs subject to formal enforcement action. An addendum was tabled providing the Board with an update on the Trust Special Administration at Mid Staffordshire NHS Foundation Trust.

13.2 Further oral updates were provided with regard to:

- Medway NHS Foundation Trust;
- Basildon and Thurrock University Hospitals NHS Foundation Trust;
- Tameside Hospital NHS Foundation Trust;
- University Hospitals of Morecambe Bay NHS Foundation Trust; and
- Dorset HealthCare University NHS Foundation Trust.

14. Proposals for publication of the Tariff Engagement Document (BM/14/72(P))

Nicholas Burke (Media Relations Manager), Catherine Pollard (Pricing Development Director), Igor Popovic (Pricing Delivery Director), Simon Rogers (Legal Director), Ben Shafran (Tariff Engagement Document Editor-in-Chief) and Zephan Trent (Impact Assessment Lead) joined the meeting for the consideration of this item.

14.1 Ric Marshall introduced the report which set out the main policy proposals planned for inclusion within the Tariff Engagement Document (TED), which Monitor planned to publish jointly with NHS England ahead of the statutory consultation on the content of the National Tariff. The publication of the TED was designed to enable early engagement of stakeholders and provide the

opportunity to take account of their views ahead of the production of final proposals.

- 14.2 Consideration was given to the proposed national currencies (the groupings of services for which national prices were set) and the methodology for calculation of national prices. Board members discussed the proposed use of 2011/12 reference costs as the basis for setting prices. The current timescales involved in collecting cost data were noted and the value of progressing towards more accurate price setting, based on better and more recent cost and activity data was emphasised. It was anticipated that this would help health care commissioners and providers to make better decisions about what services to commission and provide. The Board noted that the use of reference costs was an aspect of the National Tariff that had been inherited by Monitor when it had taken on its Pricing function. The importance of further consideration of the longer term pricing strategy in this context was stressed.

ACTION: CP

- 14.3 The Board discussed the proposed approach to be taken with regard to the payment approach for urgent and emergency care, in particular the need for the marginal rate rule and the 30-day emergency readmission rule. Consideration was also given to the development of a transparent, flexible and accountable payment system with regard to mental health services.

RESOLVED:

- 14.4 The Board resolved that the proposals set out in the paper should be adopted for publication in the TED, together with an updated impact assessment framework.

15. 2015/16 National Tariff Payment System – key proposals for the Tariff Engagement Document – efficiency, leakage and affordability (BM/14/73(P))

Nicholas Burke (Media Relations Manager), Catherine Pollard (Pricing Development Director), Igor Popovic (Pricing Delivery Director), Simon Rogers (Legal Director), Ben Shafran (Tariff Engagement Document Editor-in-Chief) and Zephan Trent (Impact Assessment Lead) were in attendance for the consideration of this item.

- 15.1 David Bennett tabled information on the proposed approach to be taken within the TED with regard to the reference cost base and the efficiency factor.
- 15.2 Board members were content that the principal driver of the National Tariff efficiency factor should be the achievable efficiency at individual providers. However, the quality of sector cost data remained poor and suggested a wide range of the potential achievable efficiency in 2015/16. The Board discussed the need for an exceptional effort to be made by all parts of the health care sector to address the financial challenge that was expected in 2015/16. However, the importance was emphasised of being realistic about the level of effort that was achievable. The potential for an efficiency requirement to affect quality was also discussed. In light of this Board members confirmed that they were content for an efficiency factor to be set within the range of 3-5% as the estimate of the opportunity for providers to make savings in 2015/16. This assumption would be refined later in the year.

16. Pricing Update (BM/14/74(P))

Nicholas Burke (Media Relations Manager), Catherine Pollard (Pricing Development Director), Igor Popovic (Pricing Delivery Director), Simon Rogers (Legal Director), Ben Shafran (Tariff Engagement Document Editor-in-Chief) and Zephan Trent (Impact Assessment Lead) were in attendance for the consideration of this item.

16.1 The Board noted the report which provided an update on the key developments with regard to the Pricing team since the last meeting of the Board.

17. Any other business

17.1 No other business was raised.

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