



Minutes

Title of meeting Public Health England Advisory Board, held in public
Date Wednesday 21 November 2018

Present	Dame Julia Goodfellow	Chair, PHE Advisory Board
	Michael Brodie	Finance and Commercial Director
	Paul Cosford	Director of Health Protection and Medical Director
	Richard Gleave	Deputy Chief Executive and Chief Operating Officer
	Sian Griffiths	Non-executive
	George Griffin	Non-executive
	Sir Derek Myers	Non-executive
	Richard Parish	Non-executive
	Duncan Selbie	Chief Executive
In attendance	Lee Bailey	Director of Communications
	Camilla Bellamy	Deputy Director, People Directorate
	Viv Bennett	Chief Nurse and Director for Maternity and Early Years
	Derrick Crook	Director, National Infection Service, PHE
	Martin Hindle	Independent member, PHE Audit and Risk Committee
	Deborah McKenzie	Chief People Officer, PHE
	Margaret Mauchline	Deputy Chair, PHE Staff Side
	Adrian Masters	Director of Strategy, PHE
	John Newton	Director for Health Improvement
	Femi Oshin	Consultant in Public Health Medicine
	Rachel Scott	Board Secretary, PHE
	Alex Sienkiewicz	Director of Corporate Affairs, PHE
	Imogen Stephens	Deputy Medical Director (Office of the Responsible Officer)
Robert Wilson	Local Negotiating Committee (LNC) Chair	
Apologies	Yvonne Doyle	Director, London
	Poppy Jaman	Non-executive

Announcements, apologies, declarations of interest

18/091 The Chair opened the meeting and welcomed all those in attendance. The apologies were noted and there were no declarations of interest raised.

Independent Report commissioned by PHE from Professor Parish following a recommendation by the Employment Tribunal and PHE Management Response

18/092 The Chair advised that the open public meeting had been dedicated to considering the independent report from Professor Richard Parish. PHE had commissioned this in response to a recommendation made by an Employment Tribunal sitting in Exeter. This arose from claims brought by Dr Femi Oshin, a Consultant in Public Health Medicine, who was employed firstly by the Health Protection Agency and then PHE as the successor body until he left the organisation through a voluntary exit scheme in the summer of 2015.

- 18/093 The remedy judgment, which was in the public domain, recorded that Dr Oshin was seeking an investigation to ensure that 'lessons had been learned and things would change' and this was therefore the focus of the discussion.
- 18/094 Professor Parish had concluded his report earlier in the month and the PHE management team had prepared an action plan to respond to the recommendations made. This was in the papers that had been circulated in advance of the meeting together with a QC's opinion that was sought as part of providing additional assurance that the review met fully the Tribunal's recommendation. The pack also contained a range of HR-related data concerning equality and diversity in PHE.
- 18/095 The Chair and Chief Executive thanked Professor Parish for his report, which made a number of themed recommendations for management to consider and respond. Dr Oshin, who had been engaged throughout by Professor Parish, had been invited to join the meeting to hear presentation of the reports of the Advisory Board and to contribute to the discussion.
- 18/096 Professor Parish summarised the process he had followed in preparing his report and the recommendations that he had made, namely:
- ensuring early intervention to resolve issues;
 - training of those involved in case work;
 - ensuring that policies and procedures are easily understood;
 - conduct of investigations;
 - use of documentation related to prior investigations; and
 - quality assurance.
- 18/097 The Chief Executive advised that the recommendations had been accepted without reservation. The Chief Executive apologised to Dr Oshin for the way in which PHE had failed him and gave his personal assurance that the actions committed to through the management response would be fully implemented.
- 18/098 The Chief People Officer summarised the key strands of the management action plan:
- a) the policy for case investigations into concerns about medical staff, which was based on Maintaining High Professional Standards (MHPS), had been updated, as had the grievance policy, which covered all staff;
 - b) there would be further investment in training for MHPS case investigators and an oversight group had been established, to ensure an increased level of scrutiny. To provide additional peer support to case investigators, a 'buddy system' had been introduced, matching newer case investigators with experienced members of staff;
 - c) PHE continued to develop an in-house mediation service as part of seeking to address grievances and other cases at an early stage;
 - d) in an initiative led personally by the Chief Executive, there had been significant focus across the organisation on ensuring that staff were treated

with respect, decency and kindness. The People Directorate was providing bespoke support to those teams who had lower Engagement Index scores in the Annual PHE Staff Survey;

- e) more robust systems were being developed in partnership with the information governance team on the management and retention of data with respect to previous HR investigations and their outcomes;
- f) a standing operating procedure would be developed to support investigating staff and decision makers in managing more complex and sensitive cases;
- g) the PHE Senior Leadership Group, which comprised the most senior staff from across the organisation, would be undertaking further training from an expert independent agency as part of ensuring compliance with the Equalities Act; and
- h) a summary flow chart was being prepared to help staff better navigate the suite of HR policies and procedures in place across PHE.

18/099 Delivery of the management action plan would be overseen by the Management Committee, the senior executive decision-making body in PHE, with assurance reports to be submitted to the Audit and Risk Committee on a frequency to be agreed with its Chair. A periodic report, through the Chair of the Audit and Risk Committee, would also be provided to the Advisory Board.

18/100 The Chair invited Dr Oshin to contribute to the Advisory Board's discussion and consideration of the report and management response. Dr Oshin first shared part of the statement that he had made to the remedy hearing of the Employment Tribunal about how the case had impacted on him personally. He also shared his views on the way in which the review had been undertaken, setting out the areas that he would like to have been covered in particular in his view that PHE was institutionally racist. Professor Parish reaffirmed the process that he had followed and the opinion from Leading Counsel that confirmed that the Tribunal had not made a broader finding that PHE was institutionally racist, nor could it given that it was hearing a specific case. It was noted that the Tribunal had also expressly rejected Dr Oshin's wider allegations of racial stereotyping and disproportionate use of the MHPS procedure against black and minority ethnic employees.

18/101 It was through common ground between all present that the focus should be on ensuring no recurrence of what had happened in Dr Oshin's case.

18/102 Dr Oshin drew particular attention to the way in which the revalidation recommendation had been handled, which had been considered fully by the Tribunal in their judgments. The Director for Health Protection and Medical Director set out the steps that had since been taken to strengthen the governance around revalidation, including the establishment of a wider advisory group that included lay and external input.

18/103 The Deputy Chair of Staff Side recommended that further work should be carried out on the data referred to earlier on in the meeting by the Chief People Officer to reflect both absolute numbers and percentages and where possible, comparisons with other similar sized public bodies. This would be taken forward as part of the management action plan.

18/104 Professor Parish's report had been commissioned during Sir Derek Myers' tenure as Acting Advisory Board Chair, and so on behalf of the Advisory Board, he brought the session to a close by summing up. In sum, the Advisory Board was:

- a) satisfied that Professor Parish's report fulfilled the recommendation made by the Employment Tribunal;
- b) noted that Dr Oshin had been compensated for the failings in the way in which his grievance, MHPS investigation and revalidation had been handled, together with the Chief Executive's apology for this;
- c) satisfied with the management response and corresponding action plan and how delivery of this would be overseen, namely by the PHE Management Committee with assurance reporting to the Audit and Risk Committee;
- d) satisfied that the additional data that had been requested was conclusive that there was no pattern of discriminatory behaviour in the PHE systems of grievance investigation and appraisal outcomes nor was there evidence of adverse opinion on PHE working arrangements from staff from groups with protected characteristics who replied to the staff survey. He was therefore satisfied that this case turned on its facts alone; and
- e) the matter had now reached its conclusion.

18/105 The Advisory Board affirmed these conclusions.

18/106 Finally, the Advisory Board Chair thanked Dr Oshin and Staff Side colleagues for their contributions to the discussion.

Any other business

18/107 There being no further business the meeting closed at 11.30am.