

# Minutes of Board Meeting

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## PHIN 1724 Board Meeting held on 28<sup>th</sup> September 2017

### Board Attendees\*

Andrew Vallance-Owen [AVO] (Chair)  
Jayne Scott [JS]  
Fiona Booth [FB]  
Professor Nancy Devlin [ND]  
Don Grocott [DG]  
Matt James (CEO) [MJ]  
Gerard Panting [GP]  
Natalie-Jane Macdonald [NM]  
Professor Sir Norman Williams [NW]

### Apologies

Michael Hutchings (MH)  
Professor Sir Cyril Chantler [CC]

### Other Attendees

Geoff Green, Finance Director [GG]  
Jonathan Finney, Member Services Director [JF]  
Dr V J Joshi [VJ]  
Mona Shah, Office Manager [MS] Minutes  
Ajay Aggarwal [Observer]

*\*Note, for the purpose of these minutes, Board members will be referred to as Attendees.*

AVO welcomed the Attendees to the meeting.

## 1. Request for declarations of Conflicts of Interest

Attendees noted the following declarations;

- AVO continues as Senior Independent Director at The Royal Brompton & Harefield NHS FT
- NW continues as a NED on the Board St Georges NHS Trust
- NJM continues as NED on the Board of Nuffield Health

There were no other reported declarations of conflicts.

## 2. Approval of Minutes from Board Meeting held on 13<sup>th</sup> July 2017

The minutes of the meeting were **approved** subject to minor revisions.

Meeting discussed the level of detail that should be minuted and in general, all Attendees were happy with the content and felt that the minutes conveyed the information as discussed at that point in time. Attendees also noted that the final version of the minutes, approved by the Board would be published on the PHIN website. Board **agreed** that they would clarify in advance, if any points raised for discussion were not for the minutes.

### **3. Reports of sub-committee**

Attendees noted that there were no written or verbal reports as no committee meeting had taken place since the last Board meeting.

### **4. Chief Executive's report**

The report was taken as read and Attendees requested that MJ talk through the key points.

MJ advised that David Minton had been appointed as PHIN's Chief Technology Officer (CTO). David would be joining PHIN from Cancer Research UK and brought with him a depth of technical knowledge and experience. This would allow VJ to focus on his role in Informatics. The Chair advised that he had attended the final stage of the interview process and was very impressed with David Minton.

Attendees noted that Anne Coyne had joined as Consultant Relationship Manager and brought with her a wealth of experience, through her consultant relationship role with BUPA. PHIN was, for the first time in its existence, at full staff complement.

DG asked whether the number of people who had joined PHIN from BUPA would be an issue in terms of the perceived relationship with Bupa. Meeting discussed this point and noted that although some of the staff had worked with Bupa at some point in time, they had not all joined directly from there. Board did not perceive this to be an issue.

MJ advised that meetings with hospital providers were going very well and were well received; although this was now proving to be a drain on the resources in the Informatics team. Attendees acknowledged a number of significant changes in the leadership of prominent members; Justin Ash had been appointed as the new CEO for Spire Healthcare; Dr Andrew Jones had been appointed the new CEO for Ramsay Health Care (in his previous role with Nuffield Health, one of the original founders of the Hellenic Project, a precursor to PHIN); Dr Karen Prinz was the newly appointed CEO for BMI Healthcare; Mr Al Russell, formerly a NED, was understood to be the acting CEO of the London Clinic. MJ added that once these new appointees were in place, he would seek to meet with them.

### **Governance**

Attendees noted that the notes from the Members' Meeting from July were on the agenda for this meeting, for review and approval. The annual audit process was underway and Mills & Reeve had been instructed to start to review PHIN's Articles of Association and a report would be submitted to the November Board meeting.

MJ thanked DG for his work with the team relating to patient involvement and apologised to DG for omitting to circulate his patient involvement paper for this meeting.

**ACTION MJ/MS to circulate the paper before the November Board meeting.**

### **Information Governance**

MJ advised the Board that the Information Sharing Agreement had been redrafted and shared with key stakeholders, awaiting comments. PHIN and the CMA had spoken to the ICO and had been advised by their representative that they were surprised that NHS Digital required PHIN to set up a consent process in order to operate. The ICO suggested PHIN should now plan for the new General Data Protection Regulation (GDPR) to take effect from May 2018, and advised that PHIN and NHSD could probably establish a legal basis for all parties to operate under GDPR without needing explicit consent, and indeed that it would probably be preferable to do so. PHIN had agreed to produce a future-state Privacy Impact Assessment (PIA) exploring a non-consent approach under the GDPR framework. The ICO could review the PIA and if approved, PHIN could then consider the next steps to take with NHS Digital.

GP suggested that PHIN and NHS Digital could make a joint submission to the ICO and PHIN could offer to pay any costs. Attendees noted this as a possible course of action.

MJ added that he had been liaising with Simon Withey of BAAPS regarding the ongoing concerns among the Breast Implant Registry Steering Group (NHS Digital) regarding the perceived potential impact of their proposed approach to consent on the integrity of the information to be collected, and that a meeting was due to be held in October.

### **Member Engagement**

MJ invited JF to update the Board on recent activity and Attendees noted that the team continued to respond to invitations and speaking opportunities. A recent conference call had been held with 10 north of England NHS Trusts advising them of the participation and submission process. Meetings had also taken place with The London Clinic and The Cadogan Clinic. The London Clinic had started to submit data and although they were a long way behind, they have now recruited clinical coders to improve their processes.

Attendees noted that 286 hospitals were published on the website in time for the September data refresh. After chasing a number of hospitals to fill gaps and bring their data up to date, 325 hospitals had successfully submitted some data. It was also noted that there was a long tail of hospitals that were not submitting data and continued not to engage with PHIN.

The Board was advised that The Royal Cornwall Hospital had managed to get their data submitted within one day, following months of non-engagement, proving that the data submission process can be done quickly if Providers are willing to work with PHIN. The Chair asked whether the Trust had been recognised for this achievement in PHIN's communications and the Attendees **agreed** that PHIN should convey communicate this good news story.

**ACTION JF to review where to add recognition of Trusts in PHIN's communications.**

JF advised the Board that the CMA had sent letters to the top six providers to acknowledge the progress they had made but also to stress the requirement for complete and accurate data submission, especially in relation to PROMS, and setting out the timelines to achieve full compliance.

Attendees noted that the CMA continued to be fair and reasonable, following due process in the manner they handled this issue with providers. JS advised that at a recent CMA conference there was a strong message that partnership engagement earlier in the process was beneficial (e.g. CQC, NHS Scotland). Attendees suggested that the CQC could ask during inspections whether hospitals that undertake private work submit their data to PHIN. MJ confirmed that this was already happening, but also noted that the CMA and CQC can only work within their respective remits.

**ACTION AVO to seek a meeting with Ted Baker (Chief Inspector of Hospitals at CQC)**

**ACTION AVO to seek a meeting with Matthew Swindells (NHS England)**

Engagement with the three devolved nations was ongoing and commencement of data submission was going well with Wales. VJ added that Scotland and Wales had indicated that they may be able to proceed with data sharing without requiring explicit patient consent.

The Implementation Forum had been better attended in September, following a slightly revised format initiated by PHIN; discussions relating to progress with Article 22, consultant portal roll out and PROMS had taken place. There was some disagreement regarding which PROMS measures had been previously agreed but Members present also came to an understanding that this issue needed to be moved on. Attendees noted that the Chair had written to the President of the GMC and was awaiting a response.

The Article 22 meetings were going well and questions raised had been addressed. Website wireframes had been produced and the team would shortly start to work on the including the hospital Terms & Conditions to the website. Initial conversations with insurers regarding an insurers ERG did not seem to raise much interest. A progress paper on Article 22 would be submitted to the Board in January 2018.

**ACTION GG to circulate a paper outlining the approach to Self-Pay to the January Board.**

MJ advised the Board that the next iteration of the consultant portal, inviting consultants to log on and start to check their data was expected to happen by mid-October; initially expecting about 40 consultants to engage. If a thousand consultants engaged with the portal by May 2018, it would be a great achievement. Attendees asked whether, if performance measures for consultants would not be published until consultants had signed off their own data, was there potential for them to cause delay by not agreeing their data? MJ reminded the Board that the principle that data would not be published until checked was a courtesy extended by PHIN rather than a commitment or requirement of the Order, that the CMA had reserved the right to force publication if required, and that they may do so if they felt that achievement of the remedies was being deliberately frustrated.

The Chair added that the work that PHIN was doing was getting attention internationally, and he had just returned from South Africa where he had been invited to speak about PHIN.

MJ updated Attendees regarding the expected communication over the autumn period. Although disappointed with the rate of progress, PHIN had managed to launch the website and publish data. MJ added that he wanted the messaging to continue to convey that there was a slow rate of improvement but to focus on positive messaging. Attendees supported a slightly tougher line in the messaging, and for PHIN to not be apologetic. Attendees suggested that PHIN needed to initiate dialogue in all forms of media and get the public involved with PHIN, to ensure that people in the profession understood the value of the data.

NJM added that negative messaging will not work and positive messages should be shared, such as the achievements of The Royal Cornwall Hospitals NHS Trust.

JS commented that implementation and embedding such changes in practice takes a long time and colleagues should not be too disheartened that things were not moving along as fast as PHIN and the CMA expected.

NW added that when good consultants take this on board and promote the use of outcome data in a positive manner, this blockage will start to clear and confidence in their own data will grow. Meeting discussed how cardiologists now run a very slick process, following a difficult time for their speciality over a number of years as a result of some high-profile issues at hospitals.

MJ advised that PHIN's Annual report was the next step and the intent behind it will be the strategy and the tone of the messaging. This will be shared with the Board members to review and approve before the November Board meeting.

**ACTION MJ to circulate the draft contents of the Annual Report to the Board for comments**

**Ian Paterson**

MJ advised the Board that he had reviewed PHIN's position in light of the Ian Paterson case as it progressed and drawn the following three conclusions;

1. PHIN had a unique overview of a consultant's practice in the private and NHS sector.
2. PHIN should be part of a wider conversation of what data might be needed to enable the sector to pick out any malpractice cases but believed that these conversations had started without PHIN being asked to participate.
3. Patients will have an expectation to come to PHIN's website and find transparent information about consultants.

MJ suggested that at a minimum, PHIN's published information would need to include the GMC's published fitness-to-practice information for transparency, similar to CQC inspections reports.

Attendees noted and **agreed** that publishing official GMC FTP information that is in the public domain is appropriate, but clarified that 'investigations' relating to possible malpractice are the

responsibility of Medical Directors of each establishment and that the fact of any ongoing investigation would not be appropriate to publish on PHIN's website. The Chair commented that if a trend was detected, there was an obligation for PHIN to highlight this to the relevant authority; Board **agreed**. Attendees **agreed** that PHIN may have a role to play in future scenarios but it needed to position itself carefully and not influence the outcome of an investigation.

## **Finances**

### **a. Finance Report & Management Accounts – Full Year Results (pre -audit)**

GG was invited to present the latest financials and advised that all the numbers were pre-audit. The initial indications from the audit were that nothing of materiality had been identified and a detailed report would be available at the November Board meeting.

Providers had been issued with credit notes in August for the 10% rebate approved by the Board and this equated to nearly £300k (inc. VAT); 109 hospitals had claimed this. Attendees noted that staff costs were slightly over budget and some of this was attributed to the shift from contract to permanent team members. IT expenditure had been below budget, due to low levels of data submission and SHED continued to work with PHIN on the marketing strategy. GG advised that two bad debts had been written off as the organisations had entered administration. The cash position continued to increase as the catch up for issuing invoices from the previous year was now up to date.

### **b. August Accounts Update**

Board noted that FY17/18 Q1 billing had been completed within two weeks and the process continued to improve with further automation. A total of £691k had been billed, which was slightly higher than budget, due to a small number of new members and slightly higher patient volumes than forecast.

Monthly expenditure in August fell slightly below budget, primarily due to underspends in consultancy, recruitment, legal and web design expenditure. Most of these were due to phasing issues with the recruitment costs for the new CTO likely to fall later in the autumn. Attendees noted the staff salaries costs in August and increased pension costs, partially due to some staff members joining the "Autoenrolment" scheme earlier than expected. The combination of these factors meant that overall costs in the month/YTD were under budget.

GG advised the Board that he had engaged a debt recovery agency and letters were being drafted to communicate to certain Providers that if they do not comply with the requirement of the Order, then the matter would be handed over to the agency. MJ added that one Trust had tried to set conditions for giving PHIN data and would only pay fees from a certain point in time; the CMA had responded to clearly state that the Trust should not use compliance with the Order as an excuse to not pay the fees as due. Board appreciated that the majority of NHS Trusts were struggling financially.

The Chair, on behalf of the Board thanked the team for their continued hard work.

## 5. Matters arising

- a. Approval of Minutes of Members' Meeting July 2017

The Board **approved** the minutes of this meeting and **agreed to Identify the Members in the questions section**. Attendees requested that affiliations should be consistently added next to the names.

**ACTION MS to revise the minutes as agreed by the Board**

## 6. AOB

- **CMA and Hospital Data Announcements**

Attendees noted the communications and media articles and acknowledged the work that Jonathan Evans, Communication Manager, had undertaken.

- **2018 Board Meeting Dates**

Board agreed with the suggested dates and noted that a suitable alternative would be proposed for the AGM in December 2018.

- **Declaration of Interest Forms** – the forms were signed and returned as requested.
- **Director Emolument Forms** - the forms were signed and returned as requested.

## Dates for Future Meetings

Meeting dates for 2017

**PHIN Board meeting dates for 2017**

*Thursday 16 November 10.30am-1.00pm*

*Thursday 07 December – AGM -10.30am followed by lunch.*

**PHIN RemCom meeting dates for 2017**

None

**PHIN Audit & Risk Committee meeting dates for 2017**

*Thursday 26 October 2017 – 10.30am-12.30pm*