PHIN

Minutes of the Board Meeting

Location: Online meeting via Microsoft Teams

Chair: Andrew Vallance-Owen

PHIN PB 2032 Board Meeting held on 12th October 2020

Board Attendees*

Andrew Vallance-Owen (Chair) [AVO]
Professor Sir Cyril Chantler [CC]
Don Grocott [DG]
Michael Hutchings (MH)
Matt James (CEO) [MJ]
Jayne Scott [JS]
Professor Sir Norman Williams [NW]
David Hare [DH]

Apologies

Gerard Panting [GP]

Other Attendees

Jonathan Finney, Member Services Director [JF]
Jon Fistein, Chief Medical Officer [JLF]
Jack Griffin, Finance and Commercial Director [JG]
David Minton, Chief Technology Officer [DMI]
Mona Shah, Director of People & Process (Company Secretary) [MS] (Minutes)

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

Welcome and introductions (Chair)

The Chair welcomed Attendees to the virtual meeting and noted apologies from Gerard Panting.

1. **Review & Consideration of the Directors' Register of Interests**

Attendees noted that all declarations of interests as recorded to date in the register still applied.

The Chair advised Directors that he had taken up the post of Chief Medical Officer of a device start-up company called Testcard Ltd and joined NHS England's Behaviour Change unit on a voluntary basis, currently focusing on community pharmacies. The Directors noted the declared interests.

There were no new declarations.

2. **Approval of Minutes and Actions**

a. The minutes of the virtual Board Meeting held on 1st September 2020 were approved, subject to minor corrections.

3. Matters Arising

a. **FSSA Member Representative Appointee** – The Chair advised that he was still awaiting names of representatives to be forwarded to him and Attendees noted that AVO had also contacted FIPO to ask for their representative nomination. MJ added that the presumption would be that the President of FSSA, now Professor Duncan Summerton, would attend but may elect a representative in due course.

b. **Insurer nomination** – The Chair advised Attendees that he had managed to contact Fiona Harris (Chair of the Association of British Insurers Health Committee) and a couple of names had been discussed informally. The Chair had suggested that PHIN Board members could also have informal conversations with the potential candidates. Fiona Harris had agreed to forward CVs for candidates to PHIN in due course.

   The Chair added that recruitment of new Non-Executive Directors (NEDs) had also been initiated, with a focus on diversity in addition to the skills discussed at the last meeting and an agency specialising in this called "Inclusive Boards" had been engaged. In response to a question, Attendees noted that the agency was happy to receive suggestions of names of possible candidates to approach and ask them to apply for the post. **ACTION ALL to send suggestions to MS**

   DG suggested that the new NEDs should be appointed for a specific term to avoid the current situation where all the Directors' terms of office were perpetual. Attendees noted that it had previously been agreed to appoint for specific terms, and that consumer or patient understanding had been identified as the primary skills gap on the Board in the exercise undertaken in 2019. JS added that she agreed with this approach and suggested that at the point when new NEDS are appointed, the assumption could be that current NEDs have completed one term in office and allow for terms to be staggered thereafter. The Chair clarified the terms of office for the new NEDs would be governed by their contracts.

c. **Conflicts of Interest Policy (V1.1)** – The Chair highlighted that minor revisions to the policy has been carried out, following comments received at the September Board meeting and invited further comments. Attendees noted the tracked revisions and did not have any further comments. The policy was **approved** as presented.

4. PHIN Strategy

a. Consultation Update & Feedback

The Chair introduced the consultation document, requesting confidentiality as the consultation was still in progress and invited MJ to present some of the responses. MJ summarised the written responses received to the strategy consultation to date and advised that notes from numerous conversations with stakeholders needed to be added.

Generally Insurers were happy to support the proposed strategy, but wanted to see results quickly and to understand what the benefits were for them. Hospitals and consultants too had generally been very positive and supportive, but some consultants had voiced concerns about how "Opt-Out " would work. There had been requests for more detail to be provided about how Priority 1 would be delivered. MJ added that some third party organisations had also been in contact via social media, specifically mentioning "Patient Safety Learning", who had provided feedback and MJ had also spoken to their Chief Executive. Other comments received from Providers included focusing on resources, scale and reinforcing the content of the CMA Order to reinforce the obligations of Member Chief Executives, as many were new in post.

The Chair added that it was important to engage with consumers and remind the sector that obligations of the CMA Order did not just rest with PHIN, but also with Providers. In response to a question, Attendees noted that the Patients' Association had been invited to participate but had not responded to date. The Board further discussed the CMA's thoughts on the delay in the delivering the CMA Order and getting priority 1 of the Strategy completed sooner.

Attendees suggested involving patients in PHIN's activities and contacting "Patient Safety Watch" (set up by Jeremy Hunt), which linked into the Parliamentary Health Committee, chaired by Jeremy Hunt. Attendees noted that this committee's focus for next year may possibly be on the type of work PHIN was doing and it might be good to start flagging PHIN's work for next year. The Chair noted the suggestion and while agreeing with the connection, added that this group possibly functioned at too high a political level for this consultation.

The Board continued to discuss comments received from specific organisations and MJ concluded by stating that the at the end of the consultation process a comprehensive report will be provided to the Board.

b. **Development, Production & Publication of Art 21 Measures**

MJ introduced the presentation, noting that both the Board and stakeholders had asked for greater detail on what was required to complete publication of the performance measures required in Article 21.1 of the CMA's Order, per priority 1 of the proposed strategy. JLF shared and presented an excel spreadsheet giving a more detailed view.

The work involved in publishing the measures to date, notably the work on methods and measures undertaken as part of *Consolidate & Fix*, had enabled the definition of a common template process, consisting of specified gateway requirements for a measure to pass through each stage of production, that could be applied to future work. Whilst each measure was somewhat different in the approach required, the template would help guide the approach to producing remaining measures that needed to be published under the CMA Oder.

The Order set out 11 performance measures, but that very high-level list masked the true extent of the endeavour. Each of the 11 measures was, at least in law, to be applied at both hospital and consultant level (hence 22), some were specific to procedures. For example, measures of improvement in health outcomes (PROMs) were being sought across 13 procedure types (again by hospital and consultant). The requirement to publish "adverse events" had to be broken down into specific types of adverse event, where Never Events had been the starting point. Information to be taken from Registries was possibly the longest list, as a dozen or more registries each contained multiple measures for multiple procedures at both consultant and hospital level, each of which had to be reconciled with PHIN's current approach.

Further, where a simplified approach was taken for the sake of speed and progress, as had been the case with publishing the "percentage improved" approach to PROMs in December 2019, or even private-only volume and length of stay, that still left the accepted or desired method (e.g. case-mix adjusted health gain or whole-practice volumes) to be published in the future,

Broken down in this way, the 11 measures specified became a list of well over 100 distinct items, as shown in the spreadsheet. JLF noted that this remained a work in progress.

MJ explained that in the past two years the team had managed to publish six performance measures as viewed from this more detailed perspective, all at hospital level, in addition to the consultant fees published in early 2019.

As such, at the current rate of progress, complete publication of the performance measures required by the Order might conceivably take 10 or even 20 years. As such, it was essential to find every possible way to increase the current rate of progress, including increasing resource in key areas and working with partners where possible.

Inevitably, there would also be efficiency gains along the way as later measures might borrow heavily on the investment in earlier measures. Conversely, JLF was mindful that we had mainly been picking off the easier measures thus far.

Attendees asked where the PROMs data came from and JLF confirmed that this was provided by the private hospitals, currently only for private patients. Meeting further discussed how the percentage of PROMs received was being calculated by PHIN.

Attendees asked what the limiting factors were in delivering the CMA Order, and was there anything apart from the limited resource stopping PHIN? JLF responded that additional manpower would definitely make a difference. MJ added that in the past there have been a number of rate limiting steps including the quality of data provided by hospitals, but that the principal bottleneck at present was capacity, especially PHIN's, but also of the hospitals and other stakeholders to engage in the consultation and validation required for each new measure. This could most directly be addressed with additional resource, whether in-house or outsourced, starting with the informatics team.

However, part of the point of seeking to partner with GIRFT and NCIP, for example, was to avoid doing work that others are already doing in an effort to speed up the overall process. Other partnerships could also be explored, as per the work with the London School of Economics.

Attendees asked whether Providers would be able to do this work themselves or would it be more efficient for them to fund PHIN to do this work? MJ responded that it may be possible for providers to take on some aspects of this work themselves and that was worth exploring again, but that had not moved forward in any real way when previously discussed. PHIN would certainly need to supplement in-house skills with third-party expertise.

Attendees commented that there was no point to take on an impossible task and make it more complicated, suggesting that focus remained on what could be achieved reliably and sensibly. Attendees questioned whether this was over-complicating the Order?

MJ and JLF confirmed that this list was strictly within the scope of the Order's direct requirements. MJ explained that the list was not adding to PHIN's work, but simply giving the complete explanation of what the Order actually required and the considerable work ahead, as the Board had required, and the need for which had been reiterated by stakeholders responding to the consultation.

Attendees voiced their concern that PHIN needed to mindful of not taking on an impossible task which could eventually impact on its reputation, but to make choices and express them clearly to stakeholders.

MJ responded that he was not in any way suggesting that the CMA's Order presented an impossible task, just a substantial one. The Order had specified an entirely fair set of requirements, being in essence a small subset of the information required to be published for any NHS acute trust. The problem was that the scale of resources applied currently was simply insufficient to progress at a sensible speed. Broadly, the work required for PHIN to publish private data was similar to the work involved for NHS Digital to publish measures about the NHS, but that the organisations were very different in scale. MJ added that historically, PHIN had prioritised progress at every stage by identifying the most value adding measure and publishing it, making choices and expressing them clearly to stakeholders exactly as attendees had suggested. However, as PHIN and its stakeholders were currently looking at the strategy for the next five years, and were keen to understand what was required to "complete" the Order, now was surely the time to fully consider what that meant in its entirety?

Attendees commented that this seemed like a very ambitious project. MJ encouraged attendees not to be frightened of the level of work entailed – the point of strategic discussions was to consider that task and how to approach it.

JS added that listening to the discussion today it seemed like this point had not been communicated strongly enough in the strategy document and suggested adding a clear explanation of this dilemma for discussion as part of the strategy consultation.

JLF explained that PHIN continued to prioritise the application of effort to make progress through the measures, and demonstrated how spreadsheet helped to inform this process. In terms of next steps over the next few months, focus would be given to measures that matter to patients such as “Patient Satisfaction” and “Patient Feedback”.

The Chair thanked JLF for presenting this complex issue to the Board.

5. PHIN Executive Report

AVO invited MJ to present the key point in his report, which was taken as read. MJ advised that key achievements since the last Board meeting included the successful production and distribution of new data sheets for volume and length of stay (LoS), discussions about supporting the Paterson Inquiry Response, discussions with DHSC/NHSX Data Co-ordination Board and the potential relation to ADAPt and the research and consultancy projects arranged with LSE.

MH asked for clarification that PHIN had ensured that results from the LSE projects would be available for PHIN to use, and JG confirmed that for both the consultancy and research projects, PHIN would have right to use of the results. Attendees noted that the appropriate consultancy agreement was also in place.

MJ invited members of the Executive team to highlight key points from their reports. JF advised that work being done to improve the Search Engine Optimisation (SEO) of the current website, with new website refresh coming up next year. The graphs representing traffic to the website were positive, showing an increase from August 4k to 6k in September. JLF advised that Never Events had been published, receiving good press coverage and data sheet had been published for private activity at site level for Volumes and LoS; Consultant associations have received them positively. MJ added that key things that were being requested as part of the next development stage were to publish NHS volumes alongside private volumes and extend this to consultants. MJ continued that the principal challenges to getting this information in the public domain included external dependencies on the quality of data received, internal data production processes and a substantial engagement effort to update the information in the portal, website and data sheets, which would all have to align. DM commented that Technology was in a good place with the new firewall due to be completely installed at end of October and Data Acquisition went out in September. MJ added that the Tech team had also been involved in delivering the SEO project. MS advised that the Projects report had been updated and in a better format, thanks to the Programme Manager, generally the team seemed to be settled and there was nothing major to report. Attendees noted that there had not been any occupational health referrals, one team member had now started her maternity leave, health seemed to be better managed possibly due to people working from home and the sickness charts were almost static.

6. Finance

a. *Finance Report, Management Accounts and Reserves – Sept YTD*

JG informed the Board that the year-end audit had been running in parallel and was on track to deliver the annual reports for both the Audit & Risk Committee and the Board to review. JG highlighted key point from the report, including an in-month surplus of £20k against the budget, cash position and debt both remained steady and only one major hospital group invoice was outstanding, but within a special arrangement of 90 day payment terms. The reserves, subject to audit outcomes, stood at 5.3 months of operating costs.

7. Governance – standing item

Nothing to report in addition to the Executive report.

8. AOB

- MH informed the board that the CMA had issued guidance on their website for hospitals & consultants about how to comply with competition law. JF added that Louise Banner from the CMA, who led the investigation, presented slides at the Implementation Forum (IF), where FIPO was represented and FIPO Board were going to arrange a meeting with the CMA. The Members present at the IF were very pleased with the presentation.
- Board discussed the option to hold the November meeting face to face and noted that the unsure climate due to the pandemic and venue availability probably meant that this may need to be a virtual meeting. **Agreed to keep November virtual**
- Attendees noted that the proposed 2021 dates would be circulated this week.

The Chair closed the meeting by advising Attendees that the November meeting would be primarily to review and approve the Annual Accounts and hopefully review the complete response to the strategy consultation.

PHIN Board meeting dates for 2020

Thursday 12th November 10:30am to 1pm, Virtual meeting

Wednesday 10th December 2020: AGM