



**HS Board Paper 4/19**

**Board Meeting: 15 February 2019**

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**BOARD GOVERNANCE TRANSITION PLAN**

**Recommendation/action required:**

The Board is invited to:

- Note the completed actions and the updated progress made against the action plan in Appendix 1.
- Note the new actions and issues that have emerged since 28 September 2018 board notably section 1.4 of the action plan in relation to our offer to support the development of new governance arrangements for PHS; paragraph 5 of this paper outlining intention to invite board member views on the NHS Health Scotland (NHSHS) Public Health Scotland (PHS) formal legislative document response
- Invite any amendments or additions to the cause of action proposed.
- Agree that this will adequately address the issues that have been raised (as we currently understand them)
- Agree a timescale for this report and action plan to return to Board if Board members feel this to be appropriate.

Author:

Sponsoring Director:

**Della Thomas**  
Executive and Governance Lead

Gerry McLaughlin  
Chief Executive

**3 February 2019**

## Board Governance Transition Plan

### Purpose

1. The purpose of this paper is to:
  - Record the Board's comments, advice and concerns in relation to board governance transition.
  - Highlight actions or proposed actions to mitigate these issues.
  - Seek agreement from the Board that this will adequately address the issues that have been raised (as we currently understand them) and invite any amendments or additions to the cause of action proposed.
2. For the purpose of this paper Board governance transition refers to the overarching governance issues associated with the establishment of the new public health organisation planned for 2019; the governance of the NHS National Boards Collaborative plan and delivery and the governance issues associated with the NHS Health Scotland Board ceasing to exist on 30 November 2019.

### Background

3. NHS Health Scotland had previously been working on the assumption that by 31 March 2019, the NHS Health Scotland Board would have completed a successful and proportionate governance transition to the new Public Health organisation, whilst actively contributing to the national shared services agenda in respect of ensuring:
  - the health inequalities and health improvement legacy i.e. A Fairer Healthier Scotland, priorities are embraced by the new Public Health Organisation and public health is included and aligned as part of the national shared services collaborative plan;
  - that NHS Health Scotland staff are well informed and engaged;
  - that NHS Health Scotland finances and assets are in order and the baseline budget protected.
4. In order to achieve the above outcomes the following 3 areas of concern were highlighted by the Board through Board Seminar discussions on 1 December 2017, 2 February 2018 and at the Board meeting on 16 February 2018, through standing Committee discussions during 2018 and in discussion during other individual meetings with non-executive members:
  - **Formation of new Public Health Organisation**
  - **National Boards Collaborative Plan**
  - **Ensuring Health Scotland governance during transition is effective and proportionate**
5. Further to the above, new information has emerged from the Public Health Oversight Board and other Public Health Reform meetings as follows:

- The new public health organisation will be called “Public Health Scotland” (PHS).
  - Public Health Scotland will be vested on 1 December 2019.
  - Public Health Scotland will take the legislative form of an NHS Special Health Board, but will look and behave very differently from an NHS Board.
  - The advert for the Chair of PHS went out towards the end of 2018 but there was not a sufficient enough field of applications for interviews to take place. The advert will be placed again soon as well as the advert for the CEO.
  - A formal legislative consultation inviting answers to a series of questions about PHS governance and purpose will be issued in mid-February 2019. Board member views will be invited into the draft NHSHS response. It should be noted that this will be just a 6 week process.
  - There will be opportunities for NHS Health Scotland to comment on the PHS Target Operating Model (TOM) and the specialist public health workforce work and further to this there will be a formal staff consultation.
  - A member of the Public Health Reform (PHR) team began work at the end of January 2019 to lead the development of the PHS Board governance work. We have made the offer of our Executive and Governance Lead to work closely and assist with this.
6. The issues associated with NHS Health Scotland Board membership to enable us to function as quorate until November 2019 have now been resolved.
  7. The Board considered and approved a sequencing of new dates for Board and Committee meetings from 1 April – 30 November 2019 at the September 2018 Board meeting.
  8. As the Board and Committees now move into the 2019 period it is important for the Board and Committees to consider their schedule of business accordingly and keep both the scheduled meetings and the business under review. As the dates for Committee meetings for 2019 are reviewed, Committee Chairs and the Board may wish to consider if all the Board Committees will continue up until 30 November 2019; for what purpose; in what form; with whom attending and if any of the remaining elements of the Committees business might be conducted through full Board instead. In this regard the Board will consider a proposal at February 2019 Board meeting to suspend the Health Governance Committee.
  9. It should be noted that these dates have been agreed around a similar sequencing timeline to usual Board business. However as this is not business as usual, but rather proportionate governance through transition with a staged hand over of governance accountability to Public Health Scotland likely and yet to be agreed.

### **Finance and Resource Implications**

10. The finance, resource and risk implications for the governance of change and transition and strategic approach to the management of the NHS Health Scotland transition and change project will be taken as an overview by Audit Committee, on behalf of the Board. This has been reflected in this Committee’s revised 2018/19 schedule of business and will be reflected in their revised 2019 schedule

also. The connection with the internal audit that will cover the governance of transition and change has also been made.

11. The financial and staff resourcing of the governance transition is covered in the 2018/19 Delivery Plan and will be scrutinised through Audit Committee and Staff Governance Committee.

### **Staff Partnership**

12. The Staff Partnership, staff engagement and involvement aspects of governance transition forms key components of the Staff Governance Committee's revised schedule of business for 2018/19 and for 2019.

### **Communication and engagement**

13. Key strategic engagement opportunities to further develop the governance transition agenda and actions are highlighted within Appendix 1. The table refers to the importance of engaging purposefully with particular groups, meetings, individuals or organisations.

### **Corporate Risk**

14. This paper has aimed to record the issues and concerns from a Board governance perspective. After considering this paper at the September 2018 board, the Board recommended that we remain alive to the risk that our Board members may in due course apply for PHS roles and we will need to mitigate this if it occurs in due course.

### **Issues Associated with Transition**

15. This paper and the Appendix in itself responds to Board governance transition issues.
16. It should be noted that whilst governance should aim to seek assurance and clarity, the period ahead is exceptional in terms of transition uncertainty particularly the three main changes as highlighted in paragraph two of this paper. Whilst the plan in Appendix 1 aims to offer some responses to mitigate concerns and issues raised, the Board will inevitably need to remain adaptive and thoughtful about other challenges as they present and include some flexibility in our responses, whilst aiming to fulfil the role of effective scrutiny and good governance to achieve the outcomes outlined in paragraph 3.

### **Promoting Fairness**

17. The values and principles of human rights and fairness are embraced within the very working of the Health Scotland Board and these values and principles have been advocated to the Public Health Reform Team and COSLA for inclusion in the new public health organisation as per 1.4 of the action plan.

### **Sustainability and Environmental Management**

18. We do not have any particular sustainability and environmental issues associated with governance transition currently. Our assumption is that the new organisation will operate from the same facilities and buildings in 2019/20.

19. We continue to apply an approach to Board and Committee business that uses electronic devices as opposed to paper copies to contribute to environmental targets.

### **Action/ Recommendations**

20. The Board is invited to:

- Note the completed actions and the updated progress made against the action plan in Appendix 1.
- Note the new actions and issues that have emerged since 28 September 2018 board notably section 1.4 of the action plan in relation to our offer to support the development of new governance arrangements for PHS; paragraph 5 of this paper outlining intention to invite board member views on the NHS Health Scotland (NHSHS) Public Health Scotland (PHS) formal legislative document response
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**Della Thomas**  
**Executive and Governance Lead**  
**3 February 2019**

## Appendix 1

Governance Concern/Issue	Action/Proposed Action
<p><b>1. Formation of Public Health Scotland</b></p> <p>1.1 The NHS Health Scotland Board is not clear on who currently is accountable for the success of the new public health organisation</p> <p>1.2 The NHS Health Scotland Board is not clear on:</p> <ul style="list-style-type: none"> <li>- A confirmed date for their accountability for Health Scotland services, staff and finances to transfer and to whom</li> <li>- The implications for some non-executive Board members of the extension to November 2019 in relation to their terms of appointment</li> <li>- The line of governance sight during transition in relation to 2019 planning for delivery, finances, staff and strategic engagement</li> </ul>	<p>1.1 We have established an agreed understanding with SG that the overall accountability for the new public health organisation lies with the Minister and COSLA Spokesperson and not with the Health Scotland Board. This was recorded in the minutes of 23 March 2018 Board meeting and in a letter from the HS Chair to Andrew Scott (SG) after their meeting recording his thoughts and received confirmation was received that they were in agreement with this. <b>Action completed</b></p> <p>1.2 Our Chair is now a member of the Public Health Reform Oversight Board and is able to directly raise questions in this forum on behalf of the Board. <b>Action completed</b></p> <p>Senior members of the SG Public Health Reform attended our 13 April 2018 Board Seminar where this was further discussed. <b>Action completed</b></p> <p><b>Update</b></p> <p>We are now working on the assumption that final accountability will transfer on 30 November 2019. The SSI for extending non-executives appointments is complete and extensions to non-executive appointments have all been made until 30 November 2019. <b>Action completed</b></p> <p>The Public Health Priorities have been published and some of the PHR Commissions have reported. The Board have an overview of this work through the Change and Transition Report which now comes to each Board meeting. Specific aspects are also reported at Audit and SGC meetings. If the Board believes further insights would be helpful into the work of the Public Health Reform Commissions (in addition to the Board report they receive at</p>

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<p>1.3 New governance processes for Public Health Scotland are sufficiently different and improved to offer “whole system” governance and opportunities to share our “whole system” governance experience are not missed</p>	<p>each Board meeting) this could be arranged for the <b>5 April 2019</b> Board Seminar.  <b>Board view requested</b></p> <p>Specifically as part of HGC assurance, it was requested that the approach we are taking to the PHR mental health priority was discussed. This was included as an agenda item at the 1 February Board Seminar. <b>Action completed</b></p> <p>It has been confirmed that the legal framework for Public Health Scotland will be an NHS Special board. The Board received a communication from the Board Chair on 20 September 2018 outlining the process through which this decision was reached <b>Action completed</b></p> <p>The line of governance sight between NHSHS and PHS Boards remains an area for on-going attention. The relationship between the HS board and the shadow Board in the governance transition period will need to be developed. <b>On-going</b></p> <p>It is proposed that the 27 September 2019 Board meeting might be used for valedictory purposes with the Minister in attendance and the Board legacy products presented. This idea is being pursued by our sponsor division in terms of the Ministers availability. <b>On-going</b></p> <p>1.3 We will seek to develop synergy between the work of the Public Health Reform Team/SG Sponsor Division Team and better understand their governance thinking and plans for Public Health Scotland and offer to assist with this process.</p> <p>We shared Board governance of health inequalities and staff governance views and approaches with senior members of the Public Health Reform Team at the Board</p>

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<p>1.4 Information about improvement processes NHS Health Scotland have developed has been shared and Health Scotland makes a contribution to the development of new governance system</p>	<p>Seminar on 13 April 2018. <b>Action completed</b></p> <p>Board views were also fed into the Public Health Reform Oversight Board meeting on 19 April 2018 and following discussion at the 18 May Board meeting, further views fed into the 24 May Public Health Reform Oversight Board by the HS Chair. <b>Action completed</b></p> <p>We now include the Board governance component in the formal quarterly sponsor meetings with the SG sponsor team. <b>Action completed</b></p> <p>A new “whole system” group has been established by Eibhlin McHugh in the PHR team. George Dodds is the NHSHS representative on this group. Eibhlin McHugh attended our 7 December 2018 Board Seminar when whole system national and local working was discussed. <b>Action completed</b></p> <p>1.4 Health Scotland Board values, principles and learning has been shared with Public Health Reform Team December 2017 and COSLA 6 February 2018. <b>Action completed</b></p> <p>Meeting between NSS Board Secretary and NHS Health Scotland Executive and Governance Lead <b>on-going</b></p> <p>The PHR Team issued a Commission on Governance and Accountability at the PHR Programme Board 29 August 2018. The focus of this work appears to have been in relation to legislation. There are a number of areas for PHS Board governance that require urgent attention for example the development of the PHS Board skills, experience and diversity matrix; the promotional approach for wide reach to increase interest in Chair and non-executives roles; the governance and PH agenda induction they will require; the</p>



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	<p>accountability framework for PHS; the agreement and development of the Board and Committee structures; the Executive and Governance leadership and administration servicing of the PHS Board; the development of Board Standing Orders, ToRs etc.</p> <p>There has Continued engagement with COSLA and Public Health Reform Team in this regard and a new PHR position has been created to progress the areas outlined above. It has recently been agreed that the HS Executive and Governance Lead will support this work <b>on-going</b></p> <p>The PHR Corporate Services Project has requested input from HS in relation to the governance service PHS will require <b>on-going</b></p> <p>If agreed by the HS Board, the Corporate Governance Self-Assessment HS has recently completed which includes areas for development and learning by PHS will be formally shared with SG PHR team and COSLA after the 15 February 2019 Board meeting <b>for Board agreement</b> (under separate February 2019 Board agenda item)</p>
<p><b>2. National Boards Collaborative Plan</b></p> <p>2.1 The overarching collaborative governance involving non-executives for the development of the national Boards collaborative plan is unclear</p>	<p>There is a meeting of the CEOs and Chairs, but this has not been authorised with a formal governance role. We should seek to work with others to develop dialogue and clarify the national Boards collaborative governance arrangements. A collaborative governance framework has now been agreed within the Programme Board <b>Action completed</b></p> <p>Our Chair has had discussions with other National Board Chairs and established other views. <b>Action completed</b></p>

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<p>2.2 It is unclear how the governance of the public health reform agenda connects with the NHS National Boards collaborative agenda and who is ensuring the public health legacy (from Health Scotland and from other national boards who will contribute to the new public health organisation), and the priorities for public health are protected, promoted and connected</p>	<p>Further to discussion at the 20 June 2018 board meeting or Chair wrote to Shirley Rogers in SG to offer suggestions for her to take to the National Programme Board for noting. <b>Action completed</b></p> <p>2.1 We will seek to discuss a more “active” governance and oversight of this agenda with the SG Public Health Reform Team and any Public Health Reform Programme Board.</p> <p>CEOs from NHS Health Scotland, Improvement Scotland, National Board Scotland and National Services Scotland met with SG Public Health Reform Team (6.3.18). The outcome of this meeting was that Public Health Reform Team are now much better sighted on the implications of the National Collaborative agenda in relation to public health. <b>Action completed</b></p> <p>Discussions took place with the SG PHR Team in relation to NHS collaborative financial contributions and the HS legacy resource as part of sponsor meeting 4 September 2018 and is now the subject of active discussion between the Reform Team and SG Health Finance colleagues. <b>on-going.</b></p>
<p><b>3. Ensuring effective and proportionate governance of Health Scotland through transition</b></p> <p>3.1 Schedules of business and Board and Committee papers need to take due regard of transition issues</p>	<p>To ensure that legacy priorities, staff and finances are in the best possible place to transition.</p> <p>3.1 We will seek to ensure our internal governance processes pay due regard to the change and transition processes and work is proportionate.</p> <p>Record all statutory and regulatory functions and ensure these are all taken through Board, Committee or other governance processes effectively in transition year. Where this may not be</p>

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	<p>possible seek alternatives (for example see section 3.2 below) <b>on-going</b>.</p> <p>An update on the Health Scotland legacy work will be brought to the March 2019 Board meeting <b>on-going</b>.</p> <p>Review all Board and Committee meetings set for 2019 and appraise if they are all required. The revised Board schedule of business will come to March 2019 Board for review and agreement. Committees review their schedule of business at their first meeting in the new business year <b>On-going</b></p> <p>Review all Board and Committee meetings proposed for 1 April – 30 November 2019 and appraise if they are all required. <b>On-going</b></p> <p>Propose to Board that HGC meetings during 2019 are suspended but the dates retained in HGC members calendars <b>for Board agreement</b> (see separate paper)</p> <p>Revise schedules of business according to requirements for governing through transition. Maintain an overview of ToRs for Committees and Board Standing Orders as noted in the review of all ToRs "Recognising that 2018/19 is a transition year for Health Scotland, the Committee's agenda and schedule of business will pay due regard to the establishment of the new public health body for Scotland and the National Boards Collaborative Delivery Plan." The review of ToRs is currently in progress with Committees and will come to March Board for approval. <b>On-going</b></p> <p>From 1 March 2018 all Board, Committee, Corporate Management Team and Partnership Forum papers have included a new heading included for the reporting and recording of "Issues Associated with transition". <b>Action completed</b></p>

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	<p>Minutes of Board and Committees will ensure Board questions and decisions and issues associated with transition are recorded. <b>On-going</b></p> <p>Agreement with sponsor division that no annual review is required for 2017/18. Instead the Board will reviewed our self-assessment of our 2017/18 performance at 23 November 2018 Board meeting with our sponsor division. <b>Action completed</b></p> <p>Date to involve Minister in 2005-31 March 2019 legacy review yet to be agreed proposed as 27 September 2019 <b>On-going.</b></p> <p>Publish 2017/18 annual report components on website - no requirement for separate annual report. Agreed with sponsor division December 2017 <b>Action complete.</b></p> <p>There is no requirement for NHS Health Scotland Board development Self-Assessment of performance process during 2018/19 Agreed with sponsor Division December 2017 <b>Action completed.</b></p> <p>Agreement with sponsor division that no annual review or self-assessment will be required from Health Scotland in 2019. <b>Action completed</b></p> <p>Agreement with Colin Brown Head of the Office of the Director General and Chief Executive NHS Scotland and our Scottish Government Sponsor Division that NHSHS will not conduct a formal Corporate Governance Self-Assessment against the Corporate Governance Blueprint involving all non-executives, we won't hold discussion at a Board Seminar on this topic or produce an improvement plan. Instead we have conducted a comprehensive desk based assessment against the blueprint and produced a paper that offers suggestions and recommendations for PHS. <b>Action completed</b></p>

Governance Concern/Issue	Action/Proposed Action
<p>3.2 We are planning for the NHS Health Scotland Board to be no longer in place from 30 November 2019, it will be necessary to agree where the Health Scotland Q3, Q4 and final reports, annual accounts and end of year report (2019) will be scrutinised and approved</p>	<p><b>3.2</b> We will develop understanding of this together with PHR Team and Public Health Scotland Shadow Board <b>on-going</b></p> <p>We have proposed that the Annual Accounts for the period from 1 April to 30 November 2019 will be presented to the Board of Public Health Scotland for approval as the assets and liabilities of Health Scotland will be transferred to them as at 30 November 2019.</p>