



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

HSE Board Committee Meeting

Minutes

A meeting of the Board of the Health Service Executive was held on Friday 14 March 2022 at 3:00pm by video conference.

Committee Members Present: Mr Ciarán Devane (Chairperson), Prof Deirdre Madden, Mr Aogán Ó Fearghaíl, Mr Brendan Lenihan, Mr Fergus Finlay, Dr Yvonne Traynor, Dr Sarah McLoughlin, Mr Brendan Whelan, Prof Fergus O’Kelly, Ms Anne Carrigy.

HSE Executive Attendance: Mr Paul Reid (CEO), Mr Stephen Mulvany (CFO), Ms Anne O’Connor (COO), Mr Dean Sullivan (CSO), Ms Niamh Drew (Deputy Corporate Secretary), Ms Hannah Barnes (Secretariat).

Apologies: Mr. Tim Hynes

Joined the meeting: Dr Colm Henry (CCO), Mr Mark Brennock (ND Communications), Mr John Kelly (Corporate Affairs), Mr Paul de Fraine (Interim ND Estates), Ms Eleanor Masterson (Assistant Chief Architectural Advisor), Philip Lee Solicitors.

Minutes reflect the order in which items were considered and are numbered in accordance with the original agenda.

1. Governance and Administration

1.1. Welcome and Introductions

The Chair welcomed the Board members to the meeting and agreed the agenda for the meeting.

1.2. Declarations of Interest

No conflicts of interest were declared.

3. Reconfiguration of Our Lady’s Hospital Navan (OLHN)

The CEO and the CCO provided an update to the Board on the status of the reconfiguration of OLHN to a Model 2 Hospital in accordance with the policy document, “Securing the Future of Smaller

Hospitals 2013” due to concerns arising of high risks for patient safety which had been previously considered by the Board at its meetings on the 28th of July 2021 and 29th of October 2021.

The CCO explained that hospital management and clinicians continue to highlight that the current acute model of care at the hospital holds significant risks from a governance and clinical care perspective and they fully support the planned reconfiguration to a Model 2 facility. The CCO said there are concerns about the safety of undifferentiated patients referred to the Emergency Department (ED) and that have been several incidents reported to us by the hospital since December 2021. Given the extent of the clinical concerns, it is our preference to progress with ambulance bypass with corresponding clinical protocols will be fully implemented in advance of a full transition to a Model 2 hospital.

He informed the Board the HSE met with the Minister and clinical leads in November 2021 and advised on the critical imperative to proceed with the reconfiguration. A number of actions were identified for the HSE. These actions are now complete, and we are, at the request of the Minister, finalising responses to queries put to us by local Oireachtas members.

Professor Deirdre Madden Chairperson of the Safety and Quality Committee informed the Board that the Committee had discussed this issue at a number of Committee meetings, most recently on 8th March 2022, and in light of the significant risks from a governance and clinical care perspective which the current acute model of care at OLHN holds, the Committee had requested that the matter be escalated to the Board.

The CEO informed the Board that the Minister had requested engagement with local Oireachtas members prior to any external communications, but planned meetings have been cancelled on a number of occasions. The HSE are finalising responses to the individual questions relating to the reconfiguration received from Oireachtas members which will be returned to the Minister with a request for an urgent rescheduling of the meetings with local Oireachtas members.

The Board asked that this engagement with local Oireachtas members be concluded as a priority. The Board emphasised the urgency to implement the reconfiguration of OLHN as planned and if there is undue delay with the engagement the Board supported the proposal that the Executive would proceed with the proposed reconfiguration in the interest of patient safety within a four-week timeframe.

2. Relocation of National Maternity Hospital (NMH) to Elm Park campus - Final Legal Framework and Constitution

The Chairman noted that the Board had at its meeting on 26 November 2021 considered the draft Legal Framework and Constitution of the new NMH at Elm Park DAC and set out a number of remaining items that the Board saw as essential in securing its support for the proposal to develop the new, co-located National Maternity Hospital on the campus of St. Vincent's University Hospital at Elm Park. These matters were communicated in a letter dated 22nd December 2021 from the Chairman to the Minister.

The CEO advised the Board that very significant progress had been made in recent weeks by the HSE, in collaboration with NMH, SVHG and DoH, in bringing the key legal documents to a stage where they have substantially addressed the Board's concerns. Building on the agreement secured in late 2021 to an increase in the period of the lease and a change to the composition of the NMH DAC Board, the HSE has now also secured, inter alia, agreement to the removal of any forfeiture provision linked to the completion of the hospital and other unacceptable factors and also addressed a range of provisions to protect the independence of the DAC. All parties have also agreed to a clear and unambiguous definition of the services to be provided in the new hospital, namely all services which are clinically appropriate and legally permissible.

The V/Chair of the Audit and Risk Committee (ARC) briefed the Board on the results of the ARC meeting held earlier that day to consider the updated documents and the formal written advice from the Committee following its meeting, which was included in the Board papers. He reported that the ARC had evaluated the extent of assurance generated by the revised documentation and verified that most of the changes requested by the Board have been successfully delivered. The ARC was satisfied that HSE controlled the land for the next 300 years, that the state investment in the HSE hospital that would be built was adequately protected and that the independent governance of the operating company could not be controlled by the existing hospital group onsite in Elm Park. He noted that the ARC confirmed that their assurance level in respect of the areas of Services, Governance and Protection of State Investment is now at a satisfactory level.

The Board discussed in detail the extent to which the changes that had been made to the Legal Framework and Constitution of the new NMH at Elm Park DAC addressed the concerns the Board had set out previously to ensure the State's interests and investment in the building at SVUH are properly protected and that the new Hospital can operate independently and deliver all legally permissible and clinically appropriate healthcare services.

Board members welcomed that the term of the lease to HSE is 299 years to reduce concerns the Board had about the land and buildings being under lease and not in the State's outright ownership. The operating licence period has been aligned to reflect the extended 299-year term of the lease. A number of Board members expressed their satisfaction that land ownership would have no impact on the activities within the hospital.

The Board also welcomed the changes to the forfeiture clause noting it is now limited to items that HSE can control and the interests of the Exchequer are adequately protected.

The Board agreed that the updated definition of 'NMH Services' in the operating license is now appropriate and unambiguous so that the purpose of the DAC will be to provide all clinically appropriate and legally permissible healthcare services.

Board members emphasised that the agreement reached with all parties for early completion of the transfer of shares from the Religious Sisters of Charity to a charitable body and that SVHG have undertaken to amend their constitution to remove any reference to a religious ethos or purpose must be concluded as a priority and that this is reflected in the Coordination Agreement and the preconditions for the share transfer.

While concerns were expressed that the DAC will be technically a subsidiary of SVHG, it was noted that as a registered charity, the obligation of the DAC Board is to operate solely within the parameters of the charity's charitable purpose and not to serve the interests of its members. It was also noted that the constitution provides that the Minister holds a single "golden share for the purposes of safeguarding matters reserved for Board and that these may not be delegated to a sub-committee of the Board or to the Master". A number of board members commented that these arrangements ensure that no stakeholder could control the charity.

The Board decided to approve the Legal Framework documents, including the Constitution for the NMH at Elm Park DAC

Professor Deirdre Madden, Deputy Chairperson and Dr Sarah McLoughlin, while noting the improvements made in the legal framework continued to have concerns regarding legal ownership of the site and building, and the governance and control of the proposed new maternity hospital and felt these concerns were not adequately addressed in the revised legal framework and therefore dissented from this decision .

In discharging its collective responsibility the Board confirmed approval of the final draft of the Legal Framework documents, including the Constitution for the NMH at Elm Park DAC and that these be forwarded to Cabinet (Decision no. **140322/25**).

The Chair thanked Board members and Management for their time.

4. AOB

No further matters were discussed.

The meeting concluded at 16:31pm

Signed: 
Ciaran Devane
Chairperson

Date: 25/03/2022