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# ESSEX PROBATION (THE 'TRUST')

## MINUTES OF A BOARD MEETING HELD ON TUESDAY 29<sup>TH</sup> NOVEMBER 2011 AT 10.00AM AT THE BASILDON CENTRE, ST MARTIN'S SQUARE, BASILDON, ESSEX SS14 1DL

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**Members Present:** Alan Hubbard (Chair)  
Mary Archer (Chief Executive)  
Martin Bates  
Terry Collin  
Jo Durning  
Rob Everitt  
Carol Mellow  
Richard Moore  
Peter Wilcock  
Tim Young

**In attendance:** Alex Bamber (Director)  
Bernadette Barber (Board Secretary)  
Robin Brennan (Director)  
Debbie Came (Director)  
Paul Farmer (Director)  
Shirley Kennerson (Director)  
David Messam (Director)  
Mark Ormerod (Probation Association)  
Peter Tickner (Saxum Limited)

### 1. INTRODUCTIONS

### ACTION

The Chair welcomed Peter Tickner and Mark Ormerod to the meeting. He observed that this was his debut as Chair of the Trust and that he was delighted to have the opportunity of this role with the organisation. He thanked Tim Young on behalf of the Board for taking on the Interim Chair role and also gave a vote of thanks to Basildon Council for use of their room. He reminded everyone to switch off their mobile phones or to turn them to silent.

The Chair noted that he did not want to stifle debate but would be looking to move through the business of the meeting swiftly. He then

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said it was his intention to change the order of the agenda slightly so that, after reviewing the Minutes and matters arising from the previous meeting and before taking Peter Tickner's presentation on the Property Strategy, the first item would be his Chair's report, followed by the Chair's actions report and then the Chief Executive's report. This alteration was agreed.

### **2. DECLARATIONS OF INTEREST**

The Chair invited Board members to declare any interests in the business of the meeting. There were none.

The Board Secretary noted that the Chair had provided a General Notice of Registerable Interests and proceeded to read out the interests disclosed, namely:

- Non-executive Director of NHS North Essex Cluster of Primary Care Trusts,
- A property in Chelmsford, and
- The following memberships of professional bodies – Associate of the Chartered Institute of Bankers, member of the Institute of Directors and Institute of Leadership & Management.

### **3. APOLOGIES FOR ABSENCE**

The Board Secretary then reminded the Chair that apologies for absence had not yet been noted and confirmed that no apologies had been tendered.

### **4. MINUTES OF THE MEETING HELD ON 18<sup>TH</sup> OCTOBER 2011**

The Chair invited Board Members to review the Minutes of the meeting held on 18<sup>th</sup> October 2011 page-by-page for accuracy. No comments having been raised, the Chair requested permission for him to sign the Minutes as an accurate record of the previous meeting and this was agreed.

### **5. MATTERS ARISING FROM MINUTES OF 18<sup>TH</sup> OCTOBER 2011**

The report detailing the matters arising from the Minutes of the Board meeting held on 18<sup>th</sup> October 2011 was noted and the Chair invited those responsible for completing the actions to provide verbal updates on progress.

Jo Durning confirmed that she had met with David Messam to review the OASys quality assurance tool. There was not sufficient time in the meeting to give a full account of the information he had given her and she therefore proposed to circulate a short note to all Board members

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summarising her findings and addressing the questions of whether the tool was fit for purpose and also whether the organisation's progress towards achieving OASys quality assurance targets was sufficient. It was not possible for the current target to be achieved at present but performance improvements were being made to deliver the 90% target in the future. JD

Debbie Came then confirmed that action to make the requested amendments to the business plan prior to publication was in hand.

Confirmation was also given that the updated Car Parking, Health & Safety, Organisational Risk and Travel Expense policies had been deployed and that plans were in hand to include a diversity session in the next Staff Conference in March.

The Chair noted that the items of future business detailed in the report were all included on the meeting's agenda and would be dealt with at that time with the exception of the item on the proposed reduction of the pay protection period. The Chief Executive confirmed that progress on this was linked to national negotiations which were in hand.

The Chair then asked whether there were any other additional items arising from the Minutes of the previous meeting and Tim Young expressed his thanks to Martin Bates for stepping in to chair that meeting.

### 6. CHAIR'S REPORT

The Chair apologised for omitting to introduce Paul Farmer at the start of the meeting and extended a warm welcome to him.

The Chair then provided an oral report observing that there was not too much to say other than that he had been gathering a lot of information since his appointment four weeks earlier. He had already visited the Probation Association and also hoped to visit all the LDUs. He had met most Board members already and SMT and had attended the recent Board dinner. A date had been set in January for a corporate development day and he would issue an agenda for that session in due course. AH

### 7. CHAIR'S ACTIONS

The Chair confirmed there was nothing to report.

### 8. CHIEF EXECUTIVE'S REPORT

Mary Archer presented her report, highlighting the following issues:

- The staff event to be held on 16<sup>th</sup> March 2012 would be combined with the High Sheriff's award and regional staff awards

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ceremony, which had previously been held as separate events. The event was important to staff, who were looking forward to it, and Board members were asked to keep the day free in their diaries, ALL

- The Chief Executive and Chair had seen a copy of the proposed NOMS Probation Directorate structure. Some redundancies within NOMS were expected which, if compulsory, would be the first time compulsory redundancies had been made to her knowledge. The changes were expected to achieve £35m of savings. A copy would be available for Board members on request,
- All SBC work was drawing to a close and work would be undertaken to ensure the list was completed,
- The appointment of Louise Mozzanica as Acting Director had been announced. The aim was to free up some of Pete Mangan's and Alex Bamber's time to work on the Payment by Results and Community Payback initiatives,
- Colin Allars had provided a telephone conference update on the Probation Review, confirming that a 3% saving would be sought, with other details as previously reported. Although the Trust had previously been told only 2% savings would be required next year, it had been thought possible that this would be increased to 5% so the 3% announced was not considered too bad. The Probation Review consultation document would be available next month. All options had been put to the Minister (from maintaining the status quo to putting all services out to tender). With the range of options under review, it would be useful to feed comments into the Minister which the Chief Executive would do, MA
- Confirmation had been given that the Trust would be subject to corporation tax.

The Chair commented that he had attended a presentation at the Probation Association from Phil Copple.

### 9. PROPERTY STRATEGY

Peter Tickner gave an oral presentation outlining the on-going work to prepare an estates strategy to make sure that the Trust's premises were fit-for-purpose and adequate to support the business. Work had also focussed on raising the profile of the Trust in order to facilitate possible co-location opportunities. Rationalisation of premises could offer scope for cost savings but care was needed to ensure that savings that might

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not serve the long term needs of the business were not chosen simply because they were easy to achieve. Copies of the full presentation script were tabled.

Following the presentation the Chair invited comments and questions.

Tim Young commented that all Board members were aware the Trust's property portfolio was not managed by the Trust and therefore the Trust had limited influence over it. There were issues with a number of the properties occupied by the Trust including Cullen Mill and Felmores. In particular the facilities for Trust staff in some Courts were particularly inadequate and having visited these locations he had a great appreciation for the staff who were working under difficult conditions. Probation was viewed as a 'Cinderella' service and not properly appreciated by the public. Sharing of premises was definitely the way forward. His concern was how these proposals could be progressed within the current uncertain environment. He saw the Board's duty as being to carry out an ambassadorial role to raise appreciation of the Trust's professional staff.

Mary Archer responded to the points raised by acknowledging the practical difficulties. She gave as an example the case of the Mid Essex LDU premises where a business case had been outstanding for some time with no change likely to happen. She agreed that co-location was the way forward. Co-location had been requested at the time the new Courts were built but had not been accepted. The Fire Service had offered free-of-charge usage of their conference facilities. Despite the difficulties it was important to take control of the premises issue.

Peter Wilcock echoed Tim Young's comments. He observed that local authorities were doing a lot of work on shared services and facilities and the Trust needed to be aware of this. Mary Archer confirmed they were aware.

Peter Wilcock asked could the Trust be more proactive in shaking the Ministry of Justice up to deliver the maintenance needed and which was being paid for.

Peter Tickner responded that part of the current processes being undertaken was to highlight those issues to enable a more direct approach to be taken.

Tim Young declared an interest by virtue of his wife being a member of the Fire Service and offered, if appropriate, to see if she could help open lines of communication with them. Mary Archer said that there was already good communication.

Rob Everitt spoke about the work EOS was doing in preparation for taking on the lease of Templars, including arranging the survey of

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condition of the building. He asked whether a similar exercise would be suitable for the other Trust-occupied premises. The Chief Executive confirmed that this had already been done.

Jo Durning asked about the time frame for finalising the property strategy. Mary Archer explained that the timeframe was dependent to some extent on the Probation Review but in the meantime it was important to know the detail of the premises currently occupied and what other premises facilities might be available. The Chair suggested that an interim report on the strategy be brought back to the Board in March. This was agreed.

MA

### 10. OFFICERS' REPORTS

#### 10.1 QUARTER 2 FINANCE REPORT

Debbie Came presented her report which provided a brief summary of the position at the end of October. She highlighted there was a hefty underspend at the moment but that the year end position would be on budget. A number of spending commitments had already been made and recruitment activity had recommenced. She believed the finances to be in a good position.

In her estimate the 3% savings needed for next year would equate to £500k-£600k. Around £250k of savings had already been banked from existing schemes. There would also be an amount for inflation, say 1% for pay increases. The Chair commented that at the Probation Association event he had attended, Colin Allars had suggested a 2.2% budget increase to take account of inflation and Mark Ormerod confirmed his understanding that the inflationary figure would be based on the so-called 'Treasury deflator' which was currently higher than 1%. The Chair commented there was evidence of good husbandry and invited questions from the Board.

Terry Collin requested that further clarification be given on the question of corporation tax mentioned earlier in the meeting. The Chief Executive suggested that Debbie Came report on this at the next meeting.

DC

#### 10.2 QUARTER 2 PERFORMANCE REPORT

Pete Mangan presented his report commenting that performance was solid, in particular on the contract targets. This was of course positive but made negotiation of next year's targets more difficult.

OASys quality assurance was the only non-OMI score on the PTRS which was in Amber. Internal measures were now applying quality assurance across the whole caseload rather than just a sample. Better results were expected to filter through in around 6 months.

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Addressing the Essex Scorecard measures, Pete Mangan confirmed that the Remand in Custody PSR target could not now be achieved for the year although a 100% target had been set for the Court team for the remainder of the year and had been achieved the previous month.

The current red rating on the Scorecard for programme completions was down to profile and the targets were expected to be met for the year given the number of offenders currently in the system.

Referring to the HR performance section of the report, Pete Mangan drew the Board's attention to the special leave figures in paragraph f and made the point that one person's disability adjustment had accounted for 77% of the special leave granted at a cost of £2.9k.

Peter Wilcock expressed his satisfaction that overall sickness absence was now under control. The Chief Executive confirmed that the Trust's target had remained nine days despite the national target being 10.5 days.

The Chair thanked Pete Mangan for his explanation of the acronyms and asked three questions. Firstly he queried why only three trusts nationally got the top rating. Pete Mangan explained that a number of systems for recognising excellent performance had been implemented over time. Limiting the top rating to three trusts was a way of distinguishing between the well-performing trusts. Secondly the Chair asked why results might take six months to improve. Pete Mangan explained that some measures took time to take effect. The new National Standards no longer measured timeliness but the Trust continued to monitor it internally and the Trust would therefore be well placed if the current system of measures reverted to time-based measures in the future. Finally, the Chair requested when appraisal mechanisms were reported. Paul Farmer confirmed that appraisals were linked to the financial year end and were reported after their completion.

### **10.3 PRE-COURTWORK SPECIFICATION REPORT**

David Messam presented his report explaining that the SBC programme required trusts to examine particular areas of work against specifications and to confirm they were meeting the mandatory requirements. In relation to the Pre-courtwork specification, the Trust was fully meeting 16 out of the 17 requirements and partially meeting the remaining requirement to 'promote sentence and judicial confidence'. Although sentence engagement and liaison practice met the requirement, it was not adequately documented in the local service level agreement which therefore needed to be reviewed and updated in order to fully meet the

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requirement.

Martin Bates queried how such a broad objective could be measured, particularly when Sentencer feedback might be impacted by a number of factors outside of the Trust's control. David Messam acknowledged the legitimacy of the point raised but reiterated that the requirement was mandatory and therefore the service level agreement would need to be updated.

Jo Durning asked for the explanation of which elements of service delivery were not in the service level agreement to be expanded. David Messam clarified that the service level agreement would need to cover the type of reports delivered and meetings such as for Sentencer liaison. These activities were being done but were not properly reflected in the service level agreement at present.

Mary Archer asked were the Board happy to note the report and this was agreed.

### **10.4 EMPLOYMENT OF AGENCY WORKER POLICY**

The Chief Executive presented the report, which had been prepared by Sue Atkinson prior to her leaving the Trust, explaining that the policy needed to be updated to meet the requirements of new Agency Worker Regulations. Under the new regulations, agency workers could not be employed past a certain point unless they were given equivalent rights to permanent employees. The purpose of the changes was to ensure compliance with the new obligations.

Paul Farmer commented that there was only low usage made of agency workers (temps), with only 4 or 5 currently working within the Trust.

The Chair suggested the report be noted which was agreed.

### **10.5 CODE OF CONDUCT POLICY**

Debbie Came's report, which set out proposed changes to formalise previous guidance on social networking within the Code of Conduct Policy was noted. The Chair asked whether the Board was happy to agree the change and the amended policy was approved for deployment.

DC

### **10.6 COURTWORX AND REPORT TO COURT POLICY**

David Messam presented the policy which updated the May 2009 policy to bring it in line with current practice instructions and the relevant specification.

The Chair invited comments and questions and Peter Wilcock asked whether any other minority group were offered the facility of having

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their report prepared by a member of staff from the same group in the way that women offenders were offered the opportunity to have a female report writer. David Messam responded that this was not part of formal policy, other than for women, although offenders would be questioned to ensure that the report writer allocated to them did not present any obstacles to them. Mary Archer commented that the Trust may not always have suitable staff to cover all ethnic backgrounds and other social groups. The requirement for women came from a recommendation in the Corston Report. Pete Mangan confirmed that all social groups were monitored to ensure consistent outcomes across different groups and, in the event of a group showing poor outcomes, the possible causes would be considered.

Tim Young emphasised, referring back to the previous discussion on premises issues, that appropriate Court facilities were required if the key areas were to be delivered. Mary Archer responded that it was not for want of trying but the Court Service in Essex were very difficult. Nevertheless they would keep trying to bring about improvements.

The Chair proposed that the Policy be approved for deployment subject to the caveats expressed by the Board and this was agreed. DM

### 10.7 MEDIA REPORT

Mary Archer presented her report informing the Board of media activity since the last meeting. She commented that the report was brief because media activity in the period had been quiet.

## 11. REPORTS AND MINUTES OF COMMITTEE MEETINGS

### 11.1 AUDIT COMMITTEE

The Minutes of the Audit Committee's meeting held on 11<sup>th</sup> October 2011, the proceedings of which had been verbally reported by Jo Durning at the previous Board meeting, were noted. Richard Moore confirmed there had been no other Audit Committee meetings since then and so he did not have anything else to report.

The Chair mentioned the possible outsourcing of audits to in-house Audit Commission staff and asked whether there was any update on this. Debbie Came confirmed that this was going through the commissioning process at present. Terry Collin clarified that this was only for external audit and the internal audit function would remain with NOMS.

### 11.2 DIVERSITY COMMITTEE

Carol Mellow commented that, contrary to the indication on the agenda,

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the Diversity Committee had met since the last Board meeting but that the Minutes of that meeting were not yet available. They would be presented at the next meeting.

### **11.3 JNCC MEETING**

The Chief Executive reported that Minutes of the meeting held on 23<sup>rd</sup> November 2011 were not yet available. An update on the preparations for tomorrow's industrial action would be provided in Part 2 of the meeting.

### **11.4 HEALTH & SAFETY MEETING**

It was noted that there had been no meeting of the Health & Safety Committee since the last Board meeting.

### **11.5 CONTRACT REVIEW MEETING**

The notes of the Contract Review Meeting held on 15<sup>th</sup> November 2011 were noted and the Chair invited questions on them. Tim Young queried whether NOMS were being now provided with copies of the Board papers and the Chief Executive confirmed this had been arranged for Part 1. Referring to paragraph 5f of the meeting notes, it was noted that it was encouraging that Colin Allars was trying to pull back and focus on arms length contract issues. The Chair confirmed that Colin Allars had reiterated this point at the Probation Association. The message needed to filter through the organisation.

## **12. SIGNIFICANT DEVELOPMENTS AND FUTURE PRESENTATIONS**

There was nothing to report.

## **13. PROBATION ASSOCIATION**

The Chair reported on a presentation from Phil Cople he had attended at the Probation Association regarding the Probation Review. He noted that Phil Cople was at pains to acknowledge that he had a Prisons background and to emphasise how much he had been learning about Probation. The Chair summarised the main points from the presentation as follows:

- Progress made to date – scope of review determined and key workstreams defined. Engagement with Trusts to understand current delivery picture and trusts' view of future. Analysis and testing of assumptions with Ministers. The policy position around competition is that it is a given with the key question being how far etc.
- Current Assumptions – 2007 Offender Management Act framework for delivery of probation services will be retained. Court work will be

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retained within the public sector, expectation that other services will be competed unless compelling reasons not to do so. Overarching commissioning strategy, different services may need to be commissioned at different levels and in different ways depending on scale and nature. Commissioning and delivery structures will need to facilitate engagement with Criminal Justice Service and other partners and ensure focus on local delivery. These are only assumptions and Ministers may change things.

- Strengths of the current system – glue that binds Criminal Justice Service together and undertakes work with other public services and partners key to reducing reoffending, providing overall responsibility and continuity for delivery of community sentences and effective management of risks. Helps manage demand on systems providing trusted advice to sentencers through effective offender managers ensuring finite resources are targeted. Strong links to local parties and the bulk of services delivered in local communities.
- Weaknesses and case for change – Probation is a near monopoly, having 35 trusts as separate employers of fewer than 20k people inevitably causes back office and management overheads to be relatively high. Size and configuration of trusts varies enormously, variations in the service across trusts, not all of which can be readily explained. Scope to increase focus on outcomes, PbR etc
- Next steps – full consultation shortly linked to the consultation on community sentencing. Further engagement with PA/PCA and other stakeholders. Timetable for implementation of any changes depends on scale and scope of final reform options.

The Chair then invited Mark Ormerod, Chief Executive of the Probation Association, to speak. Mark Ormerod gave a summary of his background and explained that, having been in his current role for only six weeks, he was trying to meet as many trust board members as possible.

He outlined the two main focuses of the Probation Association as being related to employment matters and the need to influence policy, for example the current Probation Review.

He had heard a number of explanations of the Probation Review and the one provided by Phil Copple outlined by the Chair had placed more emphasis on efficiency and comparing trusts than other similar explanations. The Review was expected to coincide with the community sentencing consultation some time just before Christmas. Other initiatives such as the localism agenda were also relevant.

Referring to employment issues, Mark Ormerod confirmed that the current year's pay review was close to its conclusion. This included a major review of

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pay and reward structures for 2013.

At the most recent Probation Association Council meeting, internal issues such as subscriptions and proposals to work more closely with the PCA to form a single probation voice had been discussed as well as the way in which the Probation Association communicated with trusts. Plans were in hand to use the Probation Association forum with email alerts more frequently. The forthcoming industrial action had also been discussed. Mark Ormerod concluded by asking for feedback on how the Probation Association was viewed by the Trust and Board members.

Tim Young observed that there was a virtually-annual debate at the Trust Board about the value of the Probation Association subscription. Although the Probation Association had been doing a better job over the last 12 months, there were still dominant voices at the Probation Association and a silent majority whose views were not represented. He saw the Probation Association as too cosy with the Government and NOMS. Whilst recognising the need for good relationships, the Probation Association needed to be more challenging. He added that Essex Probation had complained about these issues for a number of years. Referring to the PA/PCA joint working or merger proposal, he thought it could work. He saw the PCA as more challenging. It would not be helpful for the Probation Association to become an irritant to the Government but at the moment it was not taken seriously. He cited a comment made at a recent Probation Association meeting when one attendee had suggested telling the Government that probation trusts were the only organisations who could deliver probation services. This, he believed, was the wrong argument and that a more effective argument would be to emphasise the efficiency and professionalism of the trusts making them best placed to do the job.

Terry Collin said that he would go further than this. Not all trusts shared the same views and it was necessary for the Probation Association to find a position which reflected all trusts' opinions.

Mary Archer concurred that not all 35 trusts thought the same. When 35 responses were combined, the views of those at the extreme ends of the spectrum, which often included Essex Probation, were lost and not represented. By way of an example, the Chief Executive recalled that, when the unions objected to her presence at an NNC meeting following the announcement of the Trust's partnership with Sodexo, the Probation Association had asked her to leave. This was not acceptable.

Robin Brennan commented that shared services always looked attractive on paper due to perceived economies of scale but experience in Prisons showed that shared services could be inefficient and process-driven, with additional costs incurred as a result which were not taken account of in the savings

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calculations.

Martin Bates offered the opinion that the Probation Association continued due to a fear of domination of the Prisons setting the agenda. If trusts had become employers able to negotiate with its own staff then there would be no need for the Probation Association.

Jo Durning disagreed with this point, commenting that employers needed support from an association. She also observed that the points raised illustrated how difficult it was to influence policy as there was no clear common view across all trusts.

Peter Wilcock suggested that the method of communicating with busy Board members should be changed as long emails tended not to be read. He preferred links to articles for example. The Chair pointed out the Probation Association intended to use its forum more in future.

Rob Everitt remarked that Mike Caldwell had been doing a good job co-ordinating the OMNI meeting which he had been involved with and making sure the right people from NOMS were there as well as Board members from different trusts. His involvement was helping to drive the issue forward.

Tim Young observed that it was necessary to have an association to be the voice of trusts, meaning the majority and not just the minority. He said private conversations with other trust board members at Probation Association meetings indicated that the views of Essex Probation on the disproportionate influence of a handful of trusts were mostly agreed upon.

The Chief Executive referred to the issue of national contracts as a 'nightmare' and said the Trust did not want to be a part of them. The agenda is to work locally but we are not allowed to move forward and be different as change is always held back by those who don't want it.

Mark Ormerod responded to the views expressed by acknowledging that any members organisation presented a challenge in terms of ensuring that it did not just opt for a 'lowest common denominator' approach. The question of the Probation Association being more strident in the position it took has been raised but when this approach has been tried in the past, it had not been welcomed. The approach had to be more subtle, with the Probation Association picking its battles carefully. The question of private side conversations was concerning as it was not healthy in cultural terms for that to be the case and he undertook to look into this. He also acknowledged that the Probation Association needed to justify itself and the value it provided to members. He concluded by thanking the Board for their frank feedback.

The Chair thanked Mark Ormerod for attending.

### **13. REPORTS TO THE BOARD FOR INFORMATION PURPOSES**

There were no reports presented for information purposes.

**14. URGENT BUSINESS**

There were no items of urgent business.

**15. EXCLUSION OF THE PRESS AND PUBLIC**

At 11.34am it was resolved to exclude the press and public from the remainder of the meeting due to the confidential nature of the matters to be discussed.

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Chair