## National Research Ethics Advisors' Panel

A meeting of the National Research Ethics Advisors' Panel held on:

**Date:** **09 November 2011**
**Time:** **14:00 – 17:00**

**Venue:** Jubilee Room
Indian YMCA
41 Fitzroy Square
London W1T 6AQ

# MINUTES

**Present:**

Andrew George (Chair)
Jeremy Butler
Hugh Davies
Peter Heasman
Nalin Thakker
Charles Warlow
Richard Tiner
Art Tucker
Frank Wells

**In attendance:**
Mr Clive Collett
Janet Wisely

1. **Apologies:** Simon Woods, Sue Wilson; Sarah Dyer; John Saunders; Caroline Harrison
2. **Declarations of Interest**

   There were none

3. **Minutes of meeting held on 12 October 2011**

   The minutes were approved subject to a minor amendment under item 7. Strategic Planning. The minutes needed to be updated to show that it was CW who mentioned a recent article referring to the withdrawal of permission to use data by participants and not RT.

4. **Matters Arising**

   There were none

5. **NRES Update : Janet Wisely**

- JW informed the panel that NRES head office had now moved to Skipton house and staff were settling in well.
- JW explained that the recent piece of work undertaken by INVOLVE in collaboration with both NRES and Infonetica based on the analysis of responses to IRAS Question A14-1("In which

aspects of the research process have you actively involved, or will you involve, patients, service users, and/or their carers, or members of the public?") would be published soon following agreement to do so by DH.

- JW informed that NRES had recently been asked to provide a witness in a recent case, prosecuted by the MHRA, which was the first case of its kind to go to court under the Medicines for Human Use (Clinical Trials) Regulations[1]. The judge in the case ordered the jury to find all defendants not guilty of all charges after the prosecution asked for the case to be withdrawn. She explained that the MHRA intended to conduct a review into the handling of the case.

- It has been announced that AAPEC will close at the end of this financial year. JW informed the panel that NRES Committee South Central - Berkshire B (previously the Reading Independent Committee (RIEC)) had now moved into NRES. Two other committees, Welwyn Clinical Pharmacology Ethics Committee (WCPEC) and the Yorkshire Independent Ethics Committee (YIREC), have expressed interest in moving across to NRES.
- An agreement to extend to the contract with Infonetica to continue the provision of, and support for, both IRAS and RED is in place. JW pointed out that whilst this had been discussed with all IRAS partners there was an acknowledgement that HRA may need wider information systems that would be provided subject to required procurement outside of IRAS as extension was only for IRAS as an application system. JW also explained that RED will also need a "revamp" in order to move away from simply being a "committee focused" database towards a system that facilitates NRES business at all levels of the service, particularly to reflect that the HRA will be the appointing authority..

- JW informed the panel that AREC have offered 20 NRES subsidised places for REC members to attend the first day of their annual conference 'Future of RECs –Changes and Challenges'. JW would be giving a talk at this conference entitled "Opportunities for NRES at the HRA".

- The statutory instrument to set up the Health Research Authority (HRA) as a special health authority was tabled on the 27th September[2]. As a negative statutory instrument it does not automatically have to be debated by parliament. However, Lord Turnberg has moved that the Grand Committee consider the Health Research Authority (Establishment and Constitution) Order 2011 (SI 2011/2323) under House of Lords business on 15 November.

- Janet Wisely confirmed that she had been appointed as the Interim Chief Executive of the HRA and Debbie Corrigan will be appointed as Interim Deputy Chief Executive of the HRA both with effect from 01 December 2011. In addition, it has been agreed that Joan Kirkbride, NRES Head of Operations, should be Acting Interim Deputy CE if required. Hugh Davies, as ethics adviser and a clinician has been asked to be an adviser to the HRA Executive Board and to be in attendance at Board meetings. Steve Tebbutt will be interim HRA Board Secretary. On 1 December 2011 there will be a first meeting of the HRA Board by teleconference to manage required procedural business and the first in person Board meeting which will take place on 11th January. Both meetings will be announced and both will be held in public. There will be an open meeting and lunch before the meeting on 11th at Skipton House

- The HRA will need an interim audit committee. JW has asked the two non-executives on the NPSA audit committee to be part of this interim committee along with Richard Tiner. If the NPSA non-executives are unable to join the audit committee then two non-executives from another ALB will be invited, potentially the MHRA may be approached.

- JW explained that any future research governance role of the HRA was part of the development work being led by Candy Morris but there were not proposals for a National Research Governance Service as described in the AMS review. There was intention to address findings of AMS and she referenced the Plan for Growth and suggested national proportionate standards.

[1] http://www.bbc.co.uk/news/uk-england-essex-15581465
[2] http://www.dh.gov.uk/health/2011/09/health-research-authority/

- JW explained that her presentation of the NRES strategic plan for 2011/12 at meetings with NRES staff and NRES members has now been completed and that the presentations had been well received. The strategic plan will be issued for wider comment as soon as possible after 01 December once NRES had moved to the HRA. It has been issued for comment within NRES. JW explained that there would be two sites (Nottingham and Jarrow) involved in the evaluation of the proposed ethics and assurance officer role, and one site (Manchester) involved in the further testing of proportionate review, focusing on whether decisions can be made on PRS applications with less documentation.

- Complaints had been received from REC members regarding recent changes to the appointment process for REC chairs. Whilst JW acknowledged these concerns she pointed out that a robust appointment process was required not only to assure REC members of the best possible chair but also that other stakeholders such as researchers, NRES staff and the public could also be assured that the best possible candidate was appointed to the position.

## 6. Nuffield Council on Bioethics - Donation: Human bodies: donation for medicine and research

Received for discussion:

- Nuffield Council on Bioethics - Donation: Human bodies: donation for medicine and research Full Report (http://www.nuffieldbioethics.org/donation):
- Short Guide
- Summary and Recommendations
- Key Recommendations

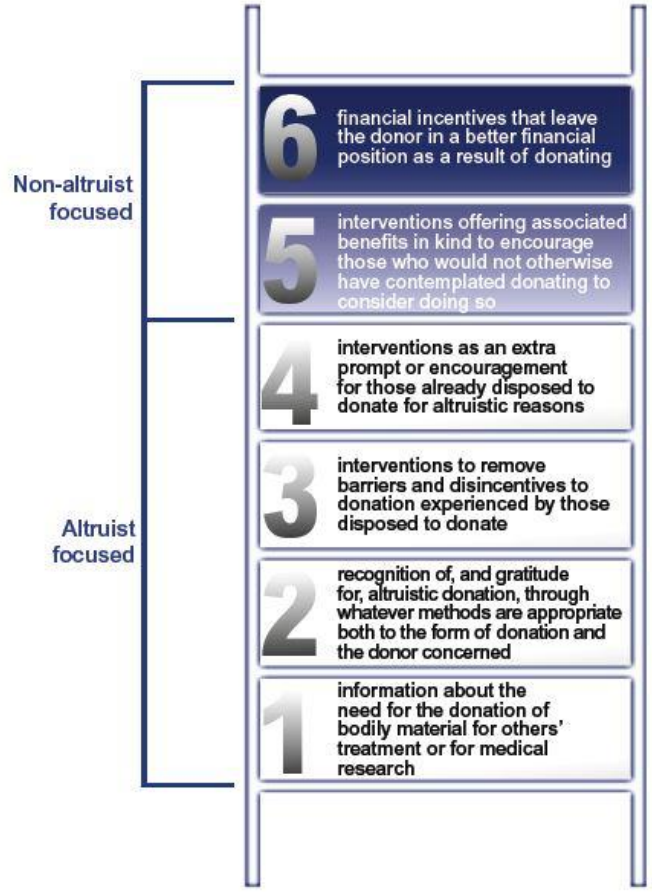
The panel were invited to discuss the report generally but their attention was drawn to the recommendation made in the report that

"NRES should consult on the possibility of limiting the total number of first in Human trials in which any one individual should take part." (Chapter 7 para 7.74)

The panel welcomed the report and felt that the council's proposed terminology regarding payments was particularly useful:

- **Payment:** a generic term covering all kinds of transactions involving money, and goods with monetary value, whether those transactions are understood as recompense, reward or purchases.
- **Recompense:** payment to a person in recognition of losses they have incurred, material or otherwise. This may take the form of the reimbursement of direct financial expenses incurred in donating bodily material (such as train fares and lost earnings); or compensation for non-financial losses (such as inconvenience, discomfort and time).
- **Reward:** material advantage gained by a person as a result of donating bodily material, that goes beyond 'recompensing' the person for the losses they incurred in donating. If reward is calculated as a wage or equivalent it becomes remuneration.
- **Purchase:** payment in direct exchange for a 'thing' (e.g. a certain amount for a kidney, or per egg).

They also welcomed the suggested "Intervention Ladder for promoting donation" as a useful tool for "analysing the ethical acceptability of different forms of encouragement for donating bodily material in various circumstances.":




RT felt that the Council's statement regarding notions of what is 'public' and 'private' was particularly helpful statement especially when applied to clinical research. Such research may be conducted either in the 'private' sector (by the pharmaceutical industry) or in the 'public' sector (by academia) but each would have both 'public' and 'private' benefits:

> "14. Two other sets of concepts that generate strong, and sometimes conflicting, reactions are the notion of what is 'public' (the public sector, the state, action that takes place in public) versus what is 'private' (of interest only to the individual/family, the private sector); and the meanings associated with money. We suggest that donation is a multi-layered process with each layer having its own public and private meanings. It may therefore be more helpful to think of public and private as being complementary and overlapping rather than in opposition (see Box 4.3)."[3]

The panel considered the recommendation made in the report that:

> "NRES should consult on the possibility of limiting the total number of first in Human trials in which any one individual should take part."[4]

The panel concurred with the concern expressed by the recommendation and noted that databases already existed to register participation in phase 1 research with the aim of preventing over volunteering. The panel endorsed the use of such databases and suggested that RECs might insist upon the registration of all volunteers in phase 1 trials in an appropriate database as a condition of their favourable opinion.

[3] Nuffield Council on Bioethics - Donation: Human bodies: donation for medicine and research Full Report. p.4
[4] Nuffield Council on Bioethics - Donation: Human bodies: donation for medicine and research Full Report. Chapter 7 para 7.74

## 7. **Conflict of Interests – Draft Guidance**

Received for discussion with a view to issuing NREAP guidance:

- Draft Guidance: NREAP/04: Conflict of Interests/Competing Interests

  The panel were also asked to review the questions and guidance contained in IRAS that relate to CoI:

- Conflicts of Interest – Extract from IRAS integrated Dataset

The panel felt that the draft guidance on 'Conflict of Interests/Competing Interests' was a useful document which provided helpful guidance to RECs. CW commented that "competing interests" and "conflict of interests" were not interchangeable and that the terms were not sufficiently defined in the guidance. It was acknowledged that these terms were often used interchangeably in the literature and by RECs and researchers. CW suggested that 'competing interests' were those that might be acknowledged and appropriately managed whilst 'conflicting interests' were those that would debar the researcher from conducting the research. He felt that the use of the term 'competing interests' would necessitate the divulgance of *all* relevant interests so that the REC could make a decision regarding which of these interests might be a 'conflicting interest' necessitating action to remove the source of the conflict.

The panel discussed this and felt that it would be appropriate to amend the guidance to acknowledge the fact that whilst both terms are in general usage the panel preferred the term "competing interests" for those interests which, whilst in tension with the proper conduct of the research, simply needed to be managed appropriately to minimise their impact. The use of the terms "conflicting interests" or "conflict of interests" would be confined to the situation where those interests were incompatible with the conduct of the research by the researcher subject to the identified conflict. However, care should be taken as the term 'conflict of interests' is often used more loosely and so guidance should be clear so that proposals were not rejected as a result of a confusion between terms.

FW felt that the document should at least raise the possibility that RECs and individual REC members may themselves have a conflict of interest. The panel agreed that this should be raised but explain that this was not the subject of this particular guidance which was focusing on competing interests of researchers alone.

It was noted that under the current NRES SOPs (Version 5.0 September 2011):

> "5.30 Guidance from NRES is that the following changes should normally be regarded as substantial:
>
> A change to the payments, benefits or incentives to be received by participants or researchers in connection with taking part in the study, or any other change giving rise to a possible conflict of interest on the part of any investigator/collaborator"

The panel felt that this should be referred to as part of the guidance in order to remind RECs and researchers that researchers may become subject to competing interests at any time during the conduct of the research and that such interests necessitated the submission of a substantial amendment if they had not been identified and appropriately managed during the initial review.

The panel felt that the use of the phrase "particularly where that research is publicly funded" in the sentence "Society has a vested interest in the integrity of research and researchers, particularly where that research is publicly funded" was unnecessary and could be removed from the guidance as the public would have a vested interest in the integrity of *all* research.

AG felt that the sentence "the following steps might be taken in order to mitigate conflict of interest" under the paragraph "what proposals could a REC make?" should be revised to indicate that the proposed measures should be applied in a proportionate fashion.

**Agreed:** The panel agreed that the guidance should be revised as indicated above and issued as NREAP guidance. The panel did not wish to see the revised guidance before publication.

**Action: AG/CC/HD**

The panel also reviewed the questions and guidance contained in IRAS that relate to CoI.

**Recommendations:**

**The panel made the following recommendations:**

- The term "competing interests" should be used in the IRAS form and question specific guidance.
- The question specific guidance linked to IRAS Question A6-2 would benefit from being reformulated in a more open manner. It was suggested that the following, or similar, might be used:

  "You should consider whether there are any competing interests that might prejudice either the safety of participants and researchers and/or the proper conduct of the study. If this is the case, you should explain how you intend to manage these competing interests to mitigate any possible harm."
- the question specific guidance for A6-2 should give specific examples of competing interests that needed to be declared and managed appropriately.
- The panel felt that IRAS Question A47 might be revised to more clearly indicate that it applied to *all* members of the research team and included payments or incentives given to a group or institution for conducting the research. It was suggested that the question might be made less personal e.g. "would any personal payments over and above normal salary, or any other benefits or incentives, be made for taking part in this research"
- The same comments were made regarding IRAS Question A48. Again this should make it clear that it applied to groups or institutions as well as individuals.

## 8. Incidental Findings in Imaging Research: a framework for considering the ethical issues – Hugh Davies

Received for discussion with a view to issuing NREAP guidance:

- Revised "Incidental Findings in Imaging Research: a framework for considering the ethical issues"

The panel felt that the revised document was now an extremely useful and well drafted piece of guidance.

It was pointed out that the statement in the guidance document "It is uncertain how this should be applied to research" should be revised to make it clearer that The Ionising Radiation (Medical Exposure) Regulations 2000 do apply to research[5].

[5]The Ionising Radiation (Medical Exposure) Regulations 2000 - Explanatory Note http://www.legislation.gov.uk/uksi/2000/1059/note/made - "These Regulations, together with the Ionising Radiations Regulations 1999 (S.I. 1999/3232) partially implement, as respects Great Britain, Council Directive 97/43/Euratom

The panel felt that the guidance should include a statement that RECs should not simply rely on the existing regulations to determine how researchers should deal with the possibility of incidental findings in the research. It should be made clear that the regulations and the panel's guidance was intended to help RECs ask the right questions of researchers regarding the management of incidental findings but that they still needed to make a judgement based on the proposed research protocol and the answers received.

FW felt that the guidance should include some acknowledgement that participants should have the right, in his view, not to know of the results of incidental findings. However, he accepted that the arguments against this position would pragmatically mean that those participants who did not wish to be informed of such results should not be allowed to take part in research where the possibility of incidental findings being found was present.

**Agreed:** The panel agreed that the guidance should be revised as indicated above and issued as NREAP guidance. The panel did not wish to see the revised guidance before publication.

**Action: HD/AG/CC**

## 9. **Disruption of Research - Caroline Harrison**

Unfortunately Caroline Harrison had to give her apologies for this meeting. This item would be discussed at the January NREA Panel meeting.

## 10. **Seeking Consent – Hugh Davies**

HD explained that NRES will be revising their existing guidance on information sheets next year. The NREAs were invited to provide initial advice, ideas, references etc in order to inform this work. Four regional meeting (London, Bristol, Manchester and Edinburgh) will take place to seek the views of stakeholders and HD explained that it would be helpful if as many NREAs as possible could take part in these.

The panel also agreed that stakeholders from outside the REC system should also be invited to attend these meetings.

## 11. **NREA Hosted Chairs' Network Meetings Minutes**

Received for information/discussion:

- Minutes: North East and Yorkshire & the Humber Joint Research Ethics Committee (REC) Chairs' Meeting held on 5 October 2011
- Minutes of the East Midlands NREA/ Chairs Meeting held on 27 September 2011

PH explained that attendees at the North East and Yorkshire & the Humber Joint Research Ethics Committee (REC) Chairs' Meeting had previously raised the concern that members, all of whom were volunteers, were being asked to undertake a high workload with regards to proportionate review. In the light of these concerns Joan Kirkbride prepared spreadsheets detailing the number of members undertaking proportionate review in the region. This data showed that 73 members from 5 RECS had taken part in proportionate review in the last six months. 13 of these members (c. 20%) had reviewed 60% of the PRS applications. The vast majority of these members were Chairs, Vice-Chairs and Alternate Vice-Chairs.

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(OJ No. L180, 9.7.97, p.22) laying down basic measures for the health protection of individuals against dangers of ionising radiation in relation to medical exposure. The Regulations impose duties on those responsible for administering ionising radiation to protect persons undergoing medical exposure whether as part of their own medical diagnosis or treatment or as part of occupational health surveillance, health screening, voluntary participation in research or medico-legal procedures."

PH noted that the members who had raised the concerns were the members who, as well as undertaking the majority of the PRS reviews, were also the members who had attended around 90% of full REC meetings.
JW acknowledged that the issue of PRS workload. There were several issues, the first being that PRS is very popular and during the phased roll out members in areas doing PRS were attracting applications UK wide and not therefore seeing an associated reduction in full committee business. This was settling as the roll out is completed. Letters of appreciation had been sent to those in the early part of the roll out and the additional burden recognised. Ultimately the PRS should see a shift from full committee to sub-committee business, not an increase in business. But this also needed managing as the roll out has expanded there are examples where the committee doing PRS has also met for full committee, with other committees in the same patch not meeting as there were insufficient full applications. This will be managed within REC centres. The other issue is recognition of sub-committee work, which at present is not counted for purpose of accreditation. Draft proposals suggested 6 PRS reviews could count as equivalent to a full committee meeting, feedback from those doing PRS had suggested this should be reduced to 4 and NRES had updated proposals that will go to the next management meeting.

## 12. **Any Other Business**

### 12.1 Clinical Trials Register

FW informed the panel that the EudraCT database was now publicly available at https://www.clinicaltrialsregister.eu/

### 12.2 Use of FOI Requests for the Purposes of Research

At the meeting in October the panel supported the drafting of a rapid response to the BMJ article "Use of Freedom of Information Act to produce research on the cheap?". A draft had been circulated to all NREAs for their comments and revisions before submission for publication. The panel agreed that HD could now submit the rapid response for publication.

**Action: HD**

## 13. **Date of Next Meeting:**

The next meeting of the National Research Ethics Advisory Panel will be held on 11 January 2012.

Time: 14:00 – 17:00
Venue: NRES
Room 140B
Skipton House
80 London Road
London SE1 6LH