

ROYAL BROMPTON & HAREFIELD NHS TRUST

**Minutes of a Meeting of the Trust Board
held on 14 December 2005 in the Concert Hall, Harefield Hospital**

- Present: Lord Newton of Braintree: Chairman
Mr C Perrin: Deputy Chairman
Mr R Bell: Chief Executive
Mrs S Bhatt: Non-Executive Director
Professor T Evans: Medical Director
Professor M Green: Non-Executive Director
Mrs J Hill: Non-Executive Director
Mrs M Leadbeater: Director of Finance
Mrs S McCarthy: Non-Executive Director
Mr P Mitchell: Director of Operations
Dr. C Shuldhham: Director of Nursing and Quality
- By invitation: Mr J Buchanan: Berwin Leighton Paisner Solicitors
(For item 2005/131)
Mr R Craig: Director of Governance and Quality
Mr N Hunt: Director of Commissioning and Business
Development
Ms J Thomas: Director of Communications
Mr T Vickers: Director of Human Resources
- In Attendance: Mr J Chapman: Head of Administration
Ms R Matthews: Senior Nurse User Involvement
Mrs E Schutte: Executive Assistant

Apologies for absence were received from Professor A Newman Taylor, Deputy Chief Executive, and Ms J Ocloo, Chairman Royal Brompton & Harefield Patient and Public Involvement Forum.

The Chairman welcomed Mrs Jennifer Hill to her first meeting as a Non-Executive Director of the Trust Board. The Chairman also welcomed members of the Trust staff and members of the public to the meeting.

REF

2005/128 MINUTES OF TRUST BOARD MEETING ON 23 NOVEMBER 2005
The minutes of the previous meeting of the Trust Board which was held on 23 November 2005 were confirmed.

2005/129 REPORT FROM THE CHIEF EXECUTIVE

The Chief Executive advised the Board that the agenda for the meeting and supporting papers covered all items on which he wished to report.

2005/130 TERMS OF REFERENCE FOR THE HAREFIELD HOSPITAL PROJECT REVIEW PANEL

The Board received a paper which set out draft terms of reference for a panel that had been set up following the SHA clinical governance review of surgical services at Harefield Hospital. The terms of reference included membership of the Panel and the stakeholders with which the Panel should engage in the course of the review. Sir Michael Partridge and Mr Mark Taylor would lead the Panel, supported by Professor Tim Evans, Dr. Charles Ilsley, Mr William Fountain and Mr Neil Moat. Mr Robert Bell, Chief Executive, said the Panel had already commenced work, had met with a number of individuals and aimed to complete the review by the end of February 2006 and to report to the Trust Board on 29 March. The Board confirmed the Review Panel's term of reference.

The Chairman reported that, following the previous Board meeting when Professor Yi Mien Koh presented the report of the SHA clinical governance review of surgical services at Harefield Hospital, the Chief Executive and he had received a letter from the SHA. The letter indicated that the SHA had, following consultation with the Department of Health, decided to postpone public consultation on sector wide strategic proposals until mid 2006. Mr Bell indicated that the Trust would proceed with action the Board had agreed at the previous meeting.

Professor Tim Evans, Medical Director, gave a progress report on the implementation of decisions the Board had taken at the previous meeting as a consequence of the report of the SHA review and indicated that he had informed the SHA at its Board meeting the previous day. The Chairman said he had also briefed the SHA Chair on action the Board had taken. Mr Nick Hunt, Director of Commissioning and Business Development, said he had informed NSCAG at a half-year review meeting of the Board's response to the review of transplantation services. NSCAG was supportive of the Board's decisions.

Comments from Members of the Public

Mrs Jean Brett, Chair of Heart of Harefield, said Heart of Harefield was delighted that Trust management and the Board had acted

swiftly and said Mr Nick Hurd MP had asked her to read his statement in support of the Board which had also been read to the SHA at its 13 December Board meeting.

"The review is clear that the clinical outcomes at Harefield are satisfactory. It also rightly points out the inadequacies of the current infrastructure at the Hospital. However the conclusion that "continued surgical provision at Harefield is not viable" is at odds with the views of senior clinical staff on the front line at the Hospital. When I met with them recently, the messages I received could not have been clearer. They are committed to Harefield, the problems can be fixed, they support the leadership of Bob Bell. The NHS is meant to be in listening mode. Having got so much wrong it is now surely time for the Strategic Health Authority to listen to the public and to the clinical expertise whose view is based on front line experience rather than the medical theory of the day and back the Royal Brompton & Harefield NHS Trust in their commitment to develop Harefield and keep both Hospitals at the cutting edge of medical knowledge and patient care."

Mrs Pauline Crawley, Chairwoman of Harefield Tenants and Residents Association, said her association welcomed inclusion among the stakeholders with whom the Harefield Hospital Project Review Panel would engage. Mr Bell thanked Mrs Crawley for her supportive comment. The Review Panel would address issues that were important to securing a safe environment for treatment of patients at Harefield Hospital and the important clinical issues that can be foreseen over the next two or three years.

2005/131 PADDINGTON HEALTH CAMPUS PROJECT LIABILITIES

The Chief Executive informed the Board that following the decision to cancel the Paddington Health Campus Development both St. Mary's NHS Trust and Royal Brompton & Harefield NHS Trust had received invoices from Partnerships UK (PUK) for reimbursement of the costs that had been incurred. Mr Bell said that under the agreement the Trusts had estimated that they were liable to pay £3,217,000 each but as North West London Strategic Health Authority (the SHA) was also a party to the Project and the financial consequences he had asked the SHA to assist with achieving an equitable outcome. The expectation was that the SHA would meet one third of the financial liabilities. Mr Bell said he had been in touch with Mr Steve Saunders, SHA Director of Strategy, who had indicated orally and by email that the SHA would engage with PUK over a payment schedule but because of the cash limit in 2005/6 it would be unable to make any

payments until the next financial year. Mr Bell said the SHA had indicated to him that a letter of assurance would follow. Royal Brompton & Harefield NHS Trust would engage separately with Imperial College about a contribution to the Trust's share of the liability to PUK. Mr Bell indicated that the liability entitled PUK to charge interest if it is not reimbursed within 30 days. The SHA had agreed to pursue this matter with PUK.

Mrs Mary Leadbeater, Director of Finance, reported that the liability had been discussed at length with the Trust's Solicitors, Berwin Leighton Paisner, and a draft resolution to achieve discharge of all Trust obligations in respect of the Paddington Health Campus Project was presented to the Board for consideration.

Mr Charles Perrin, Deputy Chairman, enquired of the status of an outstanding claim by Paddington Development Corporation Limited (PDCL) over the decision to terminate the land acquisition agreement. Mr Jim Buchanan, Solicitor at Berwin Leighton Paisner, informed the Board that PDCL had claimed payment of £250,000 from PHC. The Solicitors had rejected the claim as without foundation. They had received no response from PDCL but it was possible the Trust might have to include a reserve for a claim in the final accounts for 2005/6. Mr Buchanan also briefly explained the liability to PUK which related to services provided and to costs incurred.

The Chairman then offered members of the public the opportunity to comment.

Comments from Members of the Public

Mrs Jean Brett said Heart of Harefield had expressed concerns to the Trust some time ago about the liability to PUK and had forewarned that it had little chance of securing any reduction in relation to repayment of the Project costs PUK had incurred. There could however be grounds for negotiation over the liability to reimburse PUK for the consultancy fees it had paid as the advice given to the Trust was not as robust as it should have been. Heart of Harefield was however pleased that there would be negotiations to reduce the liability and hoped the Trust would be successful. The liability to PDCL was a different matter. The company was displeased with the Trust over the manner of the decision to terminate the Project and cancel the land acquisition agreement and when faced with an organisation that had vast resources available to protect its position the Trust could through engaging solicitors end up spending more

than the liability amounted to. In these circumstances spending money was not productive.

Mr David Potter, Vice-Chairman Heart of Harefield and Chairman of Rebeat, a Patients' Charity, noted that the Trust's final accounts for 2004/5 recorded a liability to PUK of £3,217,000 and asked if the Board was confident that it would not be exceeded. Mr Bell said PUK had invoiced the Trust and the total due was unlikely to be exceeded even if interest payments were added. He believed the liability would eventually be in the range of £3million. The SHA's final contribution was not at present known.

The draft resolution was then put to the Board for adoption. It was agreed that the third paragraph of the resolution should be amended as follows;

(3) The Chief Executive should make such arrangements for the speediest practical discharge, at the lowest cost possible, of all other obligations in respect of PHC due to or by the Trust as he considers necessary, and for him to approve the payment of all material related transactions.

The full text of the approved resolution is appended to the minutes.

2005/132 PADDINGTON HEALTH CAMPUS PROJECT: NATIONAL AUDIT OFFICE REVIEW

The Chief Executive reported that the National Audit Office (NAO) had decided to undertake a value for money review of the PHC Project and expected the review to be completed in March 2006. The Trust had indicated that it was prepared to collaborate with the NAO in the Review.

Comments from Members of the Public

Mrs Jean Brett explained that she had been asked to make clear that the decision of the National Audit Office to review the Paddington Project was widely welcomed, because unlike in the review commissioned by the SHA, the issues of accountability and responsibility would be covered.

2005/133 PERFORMANCE REPORT FOR MONTH 8: NOVEMBER 2005

Mrs Mary Leadbeater presented the performance report for November 2005. Activity was 8.2% ahead of the planned level at 30 November which had increased the surplus of income over expenditure to £4.3million but this was £800,000 below the plan for the year. The financial stability plan was on target. The main

contributing factors for the adverse variance were a budget shortfall in the costs of implementing Agenda for Change and an increase in temporary staff costs, mainly in nursing, that was the consequence of activity above plan.

Mrs Leadbeater asked the Board to note risks within the reported financial position and in achievement of a balanced outturn. The greatest risk was the inability to date of PCTs to pay for Trust's completed activity. The level of PCT debt for overperformance in 2005/06 was £3.1million, equivalent to 75% of the reported income surplus. There were also some risks over delivering the financial stability plan, the reduction of debtors and stocks to meet cash flow balance and the target the SHA had set the Trust as a contribution to its deficit for the year. Mrs Leadbeater also indicated that the financial position reported was provisional and a firm position would be given for Month 9 at the next Board meeting.

Mr Charles Perrin, Chairman of the Finance Committee, said the Trust's financial position was mostly encouraging. However, the inability to date of PCTs to pay the Trust for all activity completed gave concern and had to be monitored carefully.

Mr Patrick Mitchell, Director of Operations, explained that activity was 4% ahead of activity at the same time a year ago and as a consequence of decreased bed numbers an efficiency gain had occurred. The Trust had met all activity targets for 2005/6; no breaches were anticipated as far as could be seen. There had been fewer complaints but many of those received were complex and only 60% of responses had been sent within the target time. Dr. Caroline Shuldham, Director of Nursing and Quality, said that this had been reviewed. Response times were now improving. The Board noted the performance report.

Mr Mitchell also referred to the fire at Buncefield Oil Depot on Sunday 11 December 2005 and tabled a report of the consequences for the Trust. The Trust had a contract with Northgate Systems which provided computer platforms to support the Patient Administration System for both hospitals and the radiology system for Royal Brompton Hospital. Northgate Systems offices were adjacent to the depot and were severely damaged by the fire. As a consequence the two systems were inoperable but the Trust Information Systems Department had implemented emergency manual procedures to maintain the service internally. Northgate Systems had a disaster recovery plan and expected servers and

applications to be re-installed on 16 December and IS communications by 17 December.

The Board noted the position with concern. Mr Perrin recommended that the Risk Strategy Committee should review the risk register in the context of lessons to be learned from the incident. This was agreed.

2005/134 EXTERNAL AUDITORS MANAGEMENT LETTER

Mrs Leadbeater presented the management letter from Deloitte & Touche LLP, external auditors to the Trust, for 2004/5 and briefly explained the content. Mr Charles Perrin, Chairman of the Audit Committee, said the Committee had reviewed the letter carefully. The auditors had presented a satisfactory outcome for the year and the Committee recommended the management letter to the Board for adoption. This was agreed.

2005/135 MINUTES OF AUDIT COMMITTEE MEETING ON 20 SEPTEMBER 2005

The Board received and noted the minutes of a meeting of the Audit Committee on 20 September 2005.

Mr Perrin drew attention to the new NHS model terms of reference for audit committees which the Trust Internal Audit Department had reviewed and had given recommendations to the Committee. The Internal Auditors had recommended a review of the terms of reference for the other Trust Board Committees which was agreed. Mr Perrin said the terms of reference should also be examined in the context of the future responsibilities of the Non-Executive Directors. This was noted. The proposed future terms of reference for all the Board Committees would be referred to the Board for approval.

2005/136 MEETING OF THE AUDIT COMMITTEE ON 15 NOVEMBER 2005

The Board received and noted a report on matters considered at a meeting of the Audit Committee on 15 November 2005.

2005/137 CONDUCT, CAPABILITY, ILL HEALTH AND APPEALS POLICY AND PROCEDURES FOR MEDICAL STAFF

Mr Tony Vickers, Director of Human Resources, presented a new policy and procedures relating to conduct, capability, ill health and appeals for medical staff which had been compiled from national guidance published by the Department of Health and had been approved by both Hospital Medical Committees and local BMA representatives. It was proposed that the policy should apply to all doctors employed by the Trust and Mr Vickers briefly explained the

Vickers role of key personnel who would be involved in it. The roles included those of a case manager, case investigator, the Chief Executive, the Medical Director and a designated Board Non-Executive Director. Mr also drew attention to lengthy safeguards for medical staff over whom the policy may be applied and for the Trust. Professor Evans said the new policy was a considerable advance on the Department of Health national procedures that it replaced and recommended all Board Members to become aware of the role of the designated member.

Professor Malcolm Green, Non-Executive Director, commented that the application of the proposed policy to medical staff employed by the Trust would omit those with honorary contracts and those who were funded by other organisations while working within the Trust. Mrs McCarthy said there could be a need for a complementary policy which applied to medical staff who worked in the Trust but were not employed by the Trust. Mr Bell reiterated that the proposed policy applied to medical staff working in the Trust. However Trust management would examine the position of those employed in a clinical setting but who were paid by another organisation and appropriate recommendations would be brought to the Board for approval at a later date. The Board agreed that in the interim the procedures outlined in the document would be applied to those with honorary contracts. The Board then approved the policy and procedures.

2005/138 APPOINTMENT OF CONSULTANT IN MEDICAL MICROBIOLOGY AND INFECTION CONTROL

The Board approved a recommendation of an Advisory Appointment Committee to appoint Dr. Khalid Alshafi as a Consultant in Microbiology and Infection Control.

2005/139 APPOINTMENT OF CONSULTANT IN TRANSPLANT MEDICINE

The Board approved a recommendation of an Advisory Appointment Committee to appoint Dr. Emma Burkes as a Consultant in Transplant Medicine at Harefield Hospital.

Mrs Suzanne McCarthy, Non-Executive Director who chaired the Appointment Committee, drew the attention of the Board to two matters relating to the operation of the Advisory Appointment Committee. After the Committee had agreed the appointment references were distributed to members of the Committee when it was more usual practice for references to be available before the Committee began proceedings so that members had an opportunity

to ask questions from them. It also emerged that one of the panel members had provided a reference for the candidate.

Mr Vickers said that distributing references after an appointment had been agreed complied with current national guidelines on advisory appointment committee procedures. The guidelines were however under review by the Department of Health and Mr Vickers agreed to raise the issue with the statutory authority. Mr Vickers confirmed that if a referee becomes a member of an advisory appointment committee the appropriate candidate should offer another person to support their application.

2005/140 GOVERNANCE AND QUALITY REPORT

The Board received the Governance and Quality report for November 2005 and noted an update on implementation of the recommendations of the SHA review of surgery at Harefield Hospital, the clinical governance quarterly report for September 2005 and an update on the 2005/6 assurance framework.

Mr Craig referred to the Infection Control Annual Report for 2004/5 and programme for 2005/6, both of which the Board had noted from his report to the Board Meeting on 26 October. The Clinical Negligence Scheme for NHS Trusts however required the annual programme to be approved by the Board. The Board therefore noted and approved it.

2005/141 COMMENTS FROM MEMBERS OF THE PUBLIC

Mr David Potter, Vice Chairman Heart of Harefield and Chairman of Re-Beat, a Patients' Charity, congratulated Professor Evans on his presentation to the SHA Board meeting on 13 December on the implementation of the Trust's decisions following the SHA Clinical Governance Review of Surgery at Harefield Hospital. Mr Potter also thanked the Trust Chief Executive for his comments in the most recent publication of "What's New" and the proposed future direction for the Trust which was encouraging to patients and members of staff at Harefield Hospital.

The Chairman thanked Mr Potter for his kind remarks.

2005/142 EXCLUSION OF PRESS AND PUBLIC

The Chairman proposed the following resolution which was adopted; "that members of the public be excluded from the remainder of the meeting, having regard to the confidential nature of business to be

transacted, publicity on which would be prejudicial to the public interest”

(Section 1 (2) Public Bodies (Admission to Meetings) Act 1960)

The Chairman indicated that the Board would consider two further matters; a report on tenders received for non-emergency patient transport services and the award of a contract from April 2006, and matters relating to the conduct of a member of the medical staff.

**Lord Newton of Braintree
Chairman**