Minutes of the Board of Directors meeting held on 24th October 2012 in the Boardroom, Royal Brompton Hospital, commencing at 2 pm

Present:	Sir Robert Finch, Chairman	SRF
	Mr Robert Bell, Chief Executive	BB
	Mr Robert Craig, Chief Operating Officer	RCr
	Pr Timothy Evans, Medical Director & Deputy Chief Executive	TE
	Mr Richard Paterson, Associate Chief Executive - Finance	RP
	Dr Caroline Shuldham, Director of Nursing & Clinical Governance	CS
	Mr Nicholas Coleman, Non-Executive Director	NC
	Mrs Jenny Hill, Senior Independent Director	JH
	Mr Richard Hunting, Non-Executive Director	RH
	Mr Richard Connett, Director of Performance & Trust Secretary	RCo
By Invitation:	Ms Jo Thomas, Director of Communications & Public Affairs	JT
	Ms Carol Johnson, Director of Human Resources	CJ
	Mr Nick Hunt, Director of Service Development	NH
In Attendance:	Mr Anthony Lumley, Corporate Governance Manager (minutes)	
Apologies:	Mr Neil Lerner, Non-Executive Director	NL
	Ms Kate Owen, Non-Executive Director	KO

2012/88 MINUTES OF THE PREVIOUS MEETING HELD ON 26 SEPTEMBER 2012

The minutes of the meeting were approved subject to the following amendment:

- Page 4, item 2012/76, last para. first sentence delete 'SI' and second sentence delete 'who'.

2012/89 REPORT FROM THE CHIEF EXECUTIVE

BB gave verbal updates on the following items:

Imperial College Health Partnership (ICHP)

BB reported that the ICHP had completed its application to be an Academic Health Science Network and a second round of recruitment to appoint a Managing Director was underway.

Joint Committee of Primary Care Trusts (JCPCT) decision on Cardiac Surgery

BB reported that he attended a Safe and Sustainable (S&S) Workshop last week with all 11 hospitals which had formed part of the S&S review. Sir Neil McKay, Chair of the JCPCT, Sir Roger Boyle, an adviser to the JCPCT**,** Dame Deidre Kelly, Professor of Paediatric Hepatology at Birmingham Children's Hospital, and Caroline Taylor, Chief Executive of NHS North Central London were in attendance. Their message was that the decision was made and it was final and irreversible. It was up to hospitals to come up with what are the issues going forward. BB said his impression of the meeting was that it was inconclusive. Sir Roger Boyle had concluded the

discussion by stating that organisations need to take the initiative and implement by 2014.

The Secretary of State had subsequently announced a review of the JCPCT decision. The Trust had previously contested the process leading up to the decision. This new review would be of the decision itself, which had been referred to the Independent Reconfiguration Panel (IRP) by the Secretary of State. The Secretary of State had directed the IRP to carry out a comprehensive and thorough review and they should take their time. The timeframe was for the IRP to report by February 2013. BB said this was a significant deferral. The JCPCT was also still facing a potential legal challenge from the Leeds Charity. He had asked the Trust's legal team to help draft a response to the IRP.

BB said the Trust was also waiting for the report from Professor Peter Hutton's panel. The panel is due to meet in November 2012.

BB said he had met with Greg Hands MP for Chelsea and Fulham and Nick Hurd MP for Ruislip-Northwood which included Hillingdon. They had been wholeheartedly supportive of the Trust and had said that the Trust should not give in and deal with the certainties in its hands and tell them if the Trust needed their support. Previously Government ministers had stated that JCPCT's decision was their decision and not a government policy.

In meantime BB said he continued to meet with the London Specialised Commissioning Group (LSCG). They had recognised the inherent difficulties in implementation. Andy Slaughter MP had asked the Secretary of State in the House of Commons if the review will be independent and thorough to which the reply had been 'yes'.

TE said that the meeting with the JCPCT had happened exactly as BB had said. His impression was that there was no focus. Questions had been poorly worded and woolly. David Baron, from Birmingham Children's Hospital had expressed concern about the loss of expertise when centres were decommissioned. TE added that Professor Peter Hutton was getting to grips with his review and was assembling his Board for discussions in November.

NC said it was crucial to find out why this political intervention had been made.

BB said that he was aware of a feeling amongst chief executives that the hospital sector had as much right to influence the future direction of the NHS as did commissioners. The recent focus has been on increasing the power of commissioners and there needed to be a focus on collaboration between the hospital sector and commissioners to help the reconfigured NHS find its shape. The previous Secretary of State had failed but the new Secretary of State had listened to his constituents and his fellow parliamentarians.

Property Matters: Relocation

BB reported that the Trust had been exploring future collaboration with Chelsea & Westminster Hospital NHS Foundation Trust (C&W). Groundwork had been done to set an initial clinical and management vision. There had been universal subscription to this idea by clinicians in both hospitals. He had met with the Chief Executive and the Medical Director of C&W and they had been completely aligned with his views. The principles were around a Chelsea health delivery system and a Chelsea Academic Health Partnership. The objective was to produce something that could be shared with the 2 Trust's Chairmen in December 2012, then Boards in the New Year and Board-to-Board meetings subsequently. Governors would also be consulted.

JH asked whether a shared Board seminar with Governors was appropriate? BB replied that the Trust had first to clarify the proposal following which a joint meeting might follow sometime in the first quarter of 2013. SRF asked if this would take account of Professor Hutton's review and would it concern all paediatrics? BB said this should extend to all paediatrics. In response to a comment from JH that the Trust would benefit from C&W's focus on the community BB said that seeing it in terms of District General Hospital and Specialist Hospital was an antiquated way of looking at it.

CS asked what the impact of C&W considering a merger with or takeover of West Middlesex University Hospital NHS Trust might be? BB said it was a distraction and in his opinion would lead nowhere.

RP asked if the Hutton review was intended solely for internal consumption and would the Trust wait until it was ready before submitting its evidence to the Independent Reconfiguration Panel? BB said that Professor Hutton would advise how the Trust can use the report. RP asked if the Hutton review could strengthen the Trust's submission to the IRP? BB said the Trust should not put its fortune with what Hutton reports.

2012/90 CLINICAL QUALITY REPORT FOR MONTH 6: SEPTEMBER 2012

RCo highlighted the following from Month 6:

- *Clostridium difficile*: 13 cases year to date at M6 against the Monitor de minimus target of 12. The DH objective of 7 has also been exceeded. Therefore the recommendation to the Board is that it declares this compliance target 'not met'. All other compliance framework targets were met.
- RCo had met with the CQC Compliance Inspector on 27 September and CQC have confirmed that they are satisfied that the improvement action from the April 2011 inspection of Royal Brompton Hospital has been completed to their satisfaction. CQC had also clarified the expectation that each location will be inspected each year, so Royal Brompton Hospital should expect a further inspection in the not too distant future.

- 2 radiation safety incidents.
- Surgical Site Infection (SSI): an increase in deep incisional SSIs had resulted in the Trust position of 4.5% against the national target of 4.3% so an exception report had been produced.
- NHS Standard contract: for 18 weeks the performance of 84.05% meant a failure to meet the patient target at speciality level.
- Mixed sex accommodation. 8 breaches in M6 as a result of delay in step down from level 2 HDU care to level 1 ward care. This had activated a fine of £2,000.

RCo completed his report by notifying Board members that there had been correspondence between the Trust and NHS North West London (NHS NWL) about the Friends & Family Test (FFT). CS elaborated on the issues involved. The FFT means that within 48 hours, discharged patients should be asked if they would recommend the Trust to friends and family. NHS NWL have requested a first report by December 2012 and had asked Trusts to confirm that their Boards are aware of the implementation plans which was the reason for this verbal update.

RH asked if complying with the FTT would amount to a significant administrative burden? CS replied that it was a major undertaking. NHS NWL had said every patient must be asked and initially this was to be in a way that enabled the patient to be identified. Now the Trust still has to approach all patients to get a 15% response rate and show that this sample is representative of the total patient mix. Demographic data has to be collected to enable this.

SRF asked CS if there was anything else the Trust could do to reduce *clostridium difficile*? CS replied that managers were doing all they can and SRF acknowledged this point.

NC said the RSC had looked at SIs and SSIs. Noting that the rate of *Clostridium difficile* cases per 1000 admissions was up from 0.54 in 2011/12 to 0.9 2012/13 YTD he asked if this reflected the change in the method of testing? CS confirmed this was correct. BB added that the Trust does still not believe that this is a clinical issue (with patient safety implications) but it was rather a reporting issue. CS concurred and said there was no evidence of clinical cross infection.

2012/91 <u>FINANCIAL PERFORMANCE REPORT FOR MONTH 06: SEPTEMBER 2012</u>

Introducing his report RP highlighted the following performance in M06:

- A small loss which means the Trust is behind plan. NHS income slightly better (£3m), Private Patients (PP) considerably worse (£3m below) than the previous month. Contingencies were used up.
- NHS inpatient spells and hence NHS income fell compared to M05 largely owing to the lower number of working days in M06 (20 as opposed to 22 in M05) when monthly costs are fixed.

- The result was a very small surplus slightly better than plan. The position was supported by the substantial provision release in M03, which in part offset the one-off effect of the norovirus outbreak in M01.
- The Trust has a back end loaded plan and better performance could therefore be anticipated in the second half of the financial year.
- A prudent balance sheet was presented with generous provisions.
- Cash/liquidity were on plan and would be boosted by Project Diamond income expected in the second half of the year.
- Thoughts would be turning shortly to budget setting for 2013/14.

JH asked whether the outcome of S&S was affecting recruitment? RCr replied there was no direct evidence of an affect, and that paediatric intensive care (PICU) was traditionally a difficult area for recruitment and this was true at all centres. He acknowledged that there was currently a high level of PICU vacancies (although it had been higher in the past), and this was coupled with high occupancy levels, leading to the high agency costs which JH had noted. JH said that although operationally this did not provide comfort, some reassurance could be taken from RCr's summary that the effect of S&S had not had a major impact.

RP reported that the Trust's Q2 performance had been sufficient to report to Monitor an FRR rating of 3 for the quarter. RP reminded the Board, that each quarter it is also required to make a declaration to the effect that 'the Board anticipates the Trust will continue to maintain a Financial Risk Rating (FRR) of at least 3 over the next 12 months'. He had no serious concerns of FRR 3 not being maintained for the current financial year so his recommendation was that the Board confirm the declaration.

The Board agreed that the Director of Performance & Trust Secretary, acting with delegated authority from the Board, could report an FRR of 3 for the quarter to 30 September 2012 and declare that the Board anticipates the Trust will maintain an FRR of at least 3 over the next 12 months.

Action: submit Declaration to Monitor stating Board anticipates FRR3 will be maintained over the next 12 months

2012/92 <u>Q2 MONITOR DECLARATIONS 2012/13</u>

(i) <u>GOVERNANCE & QUALITY DECLARATIONS</u>

RCo reported that as the *Clostridium difficile* compliance target was not met a score of 1 had been recorded. Monitor this time had acted proactively. The relationship team with whom the Trust deals at Monitor have put together a paper, using information supplied by the Trust, for presentation to the Monitor Executive on 29 October 2012. Breach of both the Monitor de minimis and the DH objective triggers an automatic red governance rating and consideration for escalation to significant breach of authorisiation. However, the Monitor Executive have the option to over-ride this and instead rate the Trust amber green (as happened at this point in 2011/12). This is the hoped for outcome of the process.

SRF asked if override was for the rest of year? RCo said it would be for Q2. Q3-4 were subject to other factors. BB said the Trust had planned that it would not meet a Green rating this year. RH asked what was the situation with other Trusts? RCo said that of 5 Trusts in London with a threshold of less than 10, 3 were already in breach. BB said that not all of these were FTs and some of the Trusts were therefore not subject to the same regulatory regime. RCo confirmed that of the 5 Trusts, the 2 FTs were Homerton University Hospital and GOSH.

BB said Monitor processes were binary. RCr asked if the relationship team would be putting a recommendation to the Executive or was the paper just info? BB said it was unlikely Monitor would tell us.

RCo reported that the proposed declaration included a statement regarding the provision of exception reports to Monitor headed 'Otherwise'. He updated the Board on the status of the investigation by the Health & Safety Executive (HSE). An email had been received on Monday 22 October 2012 stating that the HSE will be seeking a prosecution due to a significant breach of Health and Safety legislation. As yet no details of the summons had been received. RCr said this was the breach reported to the Board in 2011 concerning a vial containing Tuberculosis bacteria which had been dropped. The HSE came in April 2011 and a 6 month investigation ensued. The HSE had found that the Trust could not evidence it was meeting compliance with the required maintenance regime when the incident had occurred and in the period leading up to it. They had not found any harm but instead had focused on safe environment/safe work issues. DAC Beachcroft LLP are advising the Trust in respect of this matter.

The Board agreed the following declarations.

For governance, that:
The board is satisfied that plans in place are sufficient to ensure: ongoing compliance with all existing targets (after the application of thresholds) as set out in Appendix B of the Compliance Framework; and a commitment to comply with all known targets going forwards.' **NOT CONFIRMED**

'Otherwise:

The board confirms that there are no matters arising in the quarter requiring an exception report to Monitor (per Compliance Framework page 17 Diagram 8 and page 63) which have not already been reported.' **CONFIRMED**

Action: submit statement, and send to Monitor via the MARS portal.

2012/93 AUDIT COMMITTEE (AC)

(i) REPORT FROM THE MEETING HELD ON 23 OCTOBER 2012

In the absence of NL, RH gave a verbal report. The AC had received the regular technical update from KPMG. The Committee recommends that this

should in future be distributed to the Board as many of the issues are in fact Board level topics. This was agreed.

The AC had also:

- Received 4 internal audit reports with assurance in line with management expectations and the committee noted that there was work to be done on procurement.
- Received the Counter Fraud Report and update on the Bribery Act and concluded that these were adequate.
- Agreed the outline Committee Work Plan for 2013/14.

Action: RCo to circulate KPMG technical updates with the Board minutes in future Board Agendas.

2012/94 RISK AND SAFETY COMMITTEE (RSC)

(i) REPORT FROM THE MEETING HELD ON 23 OCTOBER 2012

Introducing his report, NC said the RSC was able to assure the Board that the systems and processes in place in the Trust to manage risks, especially patient safety risks, are complete, appropriate, and working as intended. The committee had specifically focused on:

- The Financial Stability Plan (FSP): could it be harming patients?
- Are there any low intensity clues that the Trust is missing something?
- Are themes across the piece being spotted and followed up?
- Does the organisation understand what the quality changes afoot in the new health system mean for it?

The RSC looked into the evidence that the FSP would not have any adverse impact on patient safety and was the plan developed in a way to minimise risk to patients? The Committee had received adequate assurance on this.

The RSC had also reviewed a pack of 5 annual reports on claims, complaints and patient surveys. The committee concluded that these reports contained no substantive surprises. This had reinforced the committee's view that it is probably coming to the right conclusions from the information it usually receives. The RSC also concluded that the executive were spotting themes. For example, aspects of the surveys chimed with data elsewhere – in particular on waiting lists which linked across to conclusions from the SCTS data assessment, and to SI Root Cause Analysis themes. The RSC welcomed the plan to conduct a broad and holistic review of waiting list issues.

Quality in the new heath system (National Quality Board, August 2012). Noting that this was a detailed report but that it was not clear enough, the RSC had spent some time discussing the practical consequences on quality and patient safety. The conclusion was that the existing processes and controls, including how the Governance & Quality Committee and the RSC operate, should continue. CS had produced a briefing paper which had included a very useful summary of the 8 external organisations monitoring

RBHFT. It was felt this would be helpful for the Governors as well. NC tabled CS's paper for Board members.

Finally, the RSC had reviewed and supported the Q2 position on the Quality Governance Framework, and the Risk Management Strategy.

Action: AL to circulate CS's briefing paper on Quality in the new heath system to the Governors.

2012/95 FINANCE COMMITTEE

RCr gave an update from the meeting held on 18 October 2012. A good deal had already been covered in the Financial Performance Report. Each of the Trust's services currently provided data for the Trust's financial position. Ideally the Trust would use that to inform future service development discussions.

2012/96 PROPERTY COMMITTEE

SRF gave an update from the meeting held 24 October 2012. . The committee had considered a range of issues and considered sites for development including redevelopment of the Chelsea site and of sites at White City. SRF said he had also updated the Property Committee on the discussions being held with Imperial College. The project managers, EC Harris, had provided various reports to the Property Committee and there had been feedback from the executive steering group which is being supported by EC Harris. Price WaterhouseCoopers have provided advice on how transactions might be structured and there had been a presentation from EC Harris on procurement methodology. A Part II meeting would be held after this meeting so that further consideration could be given to confidential property matters.

2012/97 AOB

a) SRF said that RP's Personal Assistant would send agendas and minutes of the Audit, Risk and Safety, Property and Finance committees to all Board members, who would be able to request copies of any papers they wished to see. Members of each committee would continued to be fully papered.

b) JH said that since the Corporate Trustees had been disbanded, she had found it more difficult to understand the quality of life issues at the Trust which she had previously kept up to date with via the charity. JH suggested that Gill Raikes, Chief Executive of the Royal Brompton & Harefield Hospitals Charity be invited to give a lunchtime presentation before a future Board meeting to help understand the heart and soul of the Trust. This was agreed.

c) SRF reported that the Nominations and Remuneration Committee of the Council of Governors had met, Chaired by Ray Puddifoot. The priority was to appoint a NED with medical experience. Also the terms of 3 other NEDS (JH, NC and NL) have either expired, or will do so shortly. NL and NC had expressed a wish to be considered for appointment again. SRF said the

aim was to assemble a good list of people interested in becoming a NED. JH had agreed to continue as Senior Independent Director until such time as an appointment is made probably in the Spring 2013.

2012/98 QUESTIONS FROM MEMBERS OF THE PUBLIC

Donald Chapman, Chairman of the Friends of HH charity, raised concerns about The Mansion, a Grade 2 listed building, which required on-going maintenance to keep it sound and waterproof. Previously the Trust had given him assurance that it would be inspected regularly. Recently lead had been stolen from the roof. The front door had been left open and a tree was growing out of the gutter. He felt that there must be some way to seek funding to keep it sound and asked the Board for help. Historically it was an important 'NHS' building, having being given over to hospital use during the First World War , and the editor of the Lancet and Sir Alexander Fleming had stayed there.

SRF said he would ask BB and through him the Directors responsible (NH and RCr) to follow up.

DATE OF NEXT MEETING

Wednesday 28th November 2012 at 10.30 am in the Concert Hall, Harefield Hospital.