Minutes of the Board of Directors meeting held on 27th April 2011 in the Boardroom, Royal Brompton Hospital, commencing at 2.00 pm

Present:	Sir Robert Finch, Chairman	SRF
	Mr Robert Bell, Chief Executive	RB
	Richard Connett, Trust Secretary & Head of Performance	RCo
	Mr Robert Craig, Chief Operating Officer	RCr
	Mr Nicholas Coleman, Non-Executive Director	NC
	Prof Tim Evans, Medical Director	TE
	Mrs Jenny Hill, Senior Independent Director	JH
	Mr Richard Hunting, Non-Executive Director	RH
	Ms Kate Owen, Non-Executive Director	KO
	Mr Neil Lerner, Non-Executive Director	ML
	Prof Sir Anthony Newman Taylor, Non-Executive Director	ANT
	Mr Richard Paterson, Interim Director of Finance	RP
	Dr Caroline Shuldham, Director of Nursing & Clinical Governance	CS
By Invitation:	Mr Nick Hunt, Director of Service Development	NH
	Mrs Carol Johnson, Director of Human Resources	CJ
	Ms Joanna Axon, Director of Capital Projects & Development	JA
	Mr Piers McCleery, Director of Planning & Strategy	PM
	Mr David Shrimpton, Private Patients Managing Director	DS
	Ms Jo Thomas, Director of Communications	JT
	Mr Rod Morgan, Interim Chief Accountant	RM
In Attendance:	Richard Goodman, Director of Pharmacy	RG
	Andrea Kelleher	AK
	Jenny Walton,	JW
	Prof Kim Fox, Consultant Cardiologist & Director of Cardiology	KF
	Anthony Lumley, Corporate Governance Manager (minutes)	
Apologies:	Mr Mark Lambert, Director of Finance and Performance	

2011/27 MINUTES OF THE PREVIOUS MEETING HELD ON 30TH MARCH 2011

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

- Page 2, Item 2011/11, first para. second sentence: delete 'what' and replace with 'whether'.

Matters Arising

Pages 1-4, item 2011/11, Report from the Chairman in Relation to Judicial Review

BB gave a verbal update on proceedings. Mrs Justice Dobbs had been assigned. The Trust's legal team had informed him that it was unlikely the judge would carry out the review until late June or early July. Trust's counsel had voiced dissatisfaction with this as the consultation ends on 1 July 2011. However, this does not alter the possibility that the consultation could still be judged unlawful.

2011/28 REPORT FROM THE CHIEF EXECUTIVE

BB reported that prior to the public consultation event on 7 May 2011 at the Emirates Stadium in London he had attended a meeting convened by Ruth Carnall and chaired by Anne Rainsberry, Deputy Chief Executive of NHS London (NHSL), and with the Chief Executives from Guy's & St Thomas' (GST) and Great Ormond Street Hospital (GOSH) and the national commissioning group present. The intention of the meeting was to prepare a coordinated position which all centres could express at the consultation event. NHSL expected BB and the other Chief Executives to join the panel. BB said that it would not be appropriate for him to sit on the panel. The other Chief Executives present had agreed, and were comfortable with the same intent. BB added that he made it clear that he would only be attending the meeting to address any matters of fact pertaining to the Trust.

He had discussed this with SRF and legal counsel who suggested that the Trust should be invited to give their perspective. SRF said that whatever the Trust has to do on the 7 May 2011 it must be consistent with the stance on litigation: the process is flawed, the consultation has been unlawfully framed and wrongly conceived.

BB said that Sir Liam Donaldson is now ready to lead the process for London. The JCPCT had not adequately looked at the knock on effects on other aspects of the paediatric service at the Brompton.

BB reported that, with NH and RCo he had attended a London Borough of Hillingdon External Services Scrutiny Committee on 26 April and that RCo had anchored a presentation on the quality account to ensure compliance with the Department of Health (DH) and Monitor requirements. He was confident that the borough would give their support.

BB also reported that the Trust had submitted pre qualification documents with Imperial College for the Biomedical Research Units to become Biomedical Research Centres. He was notified last week that approval had not been granted for the qualification documents to go forward. The Trust had therefore applied to extend the terms of the existing BRUs.

TE was asked by JH for a view on why the application had been turned down. He said he had only had informal talks with the NIHR to date and

had not yet received a detailed analysis. The reasons given were the same as those given to the University of Southampton who had also applied for BRCs: there were not enough senior established investigators and the strategic plan was too restrictive. TE added his own perspective. He felt that respiratory and cardiovascular specialties may not be regarded as having sufficient critical mass in comparison with other groupings such as cancer. Also the failure to submit a joint application for a combined respiratory and cardiac BRC may not have worked in the Trust's favour.

BB informed the Board that the Boston Consulting group will hold a follow up planning session in May.

2011/29 INSTITUTE OF CARDIOVASCULAR MEDICINE AND SCIENCE DRAFT HEADS OF TERMS

PM introduced the report which he said was aimed at informing the board of the nature of the Institute of Cardiovascular Medicine and Science (ICMS) collaboration with the Liverpool Heart & Chest Hospital (LHCH). The Draft Heads of Terms is also being considered by LHCH's board in early May.

KF gave a description of the rationale behind the collaboration and highlighted the following from the Draft Heads of Terms:

- RBHFT and the LHCH are small institutions by American standards. The LHCH is in a new hospital which has just had a £150m refurbishment;
- in activity terms LHCH undertakes 50% more coronary angiograms than RBHFT, the same number of EP studies and 50% more primary angioplasties;
- the ICMS will be academically-led and clinically driven;
- Liverpool University are prepared to cede LHCH working with Imperial College in respect of cardiovascular research;
- a principal objective is to establish research programmes across a broad range of cardiovascular services. Partnership working will enable significant consolidation of clinical volumes;
- all the leads for the research groups have indicated they were willing to commit time to come to the Trust varying from once or twice a month to one day a week. Currently for Aortic Valve the entire team from the Texas Heart Institute come over to Liverpool for a week each year. Together, the research leads constitute an exciting team, not just in research but about delivering the best clinical care through research and treatment.

SRF asked how will the ICMS be funded and how does it align with SHA plans for cardiovascular services. KF said it will be self funding but it will take 3 years for this to be realised. Funding will be

underwritten by the Trusts. The initial commitment from each Trust involved is £50k.

TE supported the ICMS as it is an extremely important initiative in terms of tissue and data collection. It will also enhance RBHFT's research standing for the future.

NL commented that the Heads of Terms had not included a budget setting process and there needed to be a clearly laid down budget process. TE said that the Research Management Committee would oversee budget setting.

ANT said it was important to involve Imperial College (IC) in the process now as IC is the primary academic partner of RBHFT. There followed a discussion about the negotiations between RBHFT and Steve Smith, Chief Executive of ICHT and Pro Rector (Health) IC. It was agreed that given the imminent departure of Steve Smith, email correspondence between RBHFT and Steve Smith would be forwarded to ANT together with a copy of the Non Disclosure Agreement between RBHFT, IC and Liverpool and Chest NHS FT.

NC commented that the word 'all' should be removed at 6.1.

JH said that the Board should consider if it is assured that risks will be assigned appropriately across the organisations. It was concluded that risk will be apportioned to where that work is done.

BB summarised the Head of Terms paper as being about the Board being asked if it supports the vision set out in it. In his view the joint venture vehicle that will be set up will ensure 50/50. The institute can be a vehicle to raise capital and will be self funded through research grants. It is very similar to NHS Innovations which was set up to commercialise intellectual property on behalf of trusts. In that body, the risk is theirs.

Subject to inclusion of the amendments suggested and comments made by Board members, the Board APPROVED the Draft Heads of Terms.

2011/30 <u>CLINICAL QUALITY REPORT FOR MONTH 12: MARCH 2011</u>

RCo introduced the report and highlighted the following from Month 12:

- all incidents are showing an increase year on year. These indicators are not part of any targets or indicators in particular but were related to the essential standards of quality and safety covered by the Care Quality Commission (CQC) registration;
- one outbreak of infection which was of norovirus;

- two serious incidents (SIs): firstly a failure to communicate a positive mycobacterium tuberculosis culture discovered as part of the look back exercise carried out on previous SIs, and the subsequent death of the patient; secondly post operative complications for a patient suffering from severe aortic stenosis who unfortunately also subsequently died;
- *Clostridium difficile* (C diff): the Trust is still contesting the proposed trajectory of 7 for 2011/12 as opposed to 27 in the last year. RCo is continuing to hold discussions with NHSL and the DH and is aiming to agree that the C diff target will be a long stop item in the 2011/12 contract so that this can be signed.

NC commented on the Hospital Standardised Mortality Ration (HSMR). Noting the upward trend he asked if this meant during 2011/12 the Trust would be on or above the line. TE confirmed this was correct. Dr Foster has revised expected HSMR from 320 to 288 to 271 over recent months – a reduction of about 18%. In fact the number of deaths has fallen at RBH but is constant at HH. Dr Foster does not allow for high risk factors such as primary angioplasty or TAVI. TE believed that all the 'excess' deaths were in primary angioplasty. Unfortunately the discrepancy between expected versus observed means that the Trust could be perceived as less safe than the average.

The Board NOTED the report.

Governance Declaration for Monitor

RCo informed the Board that since this report was written further discussion had taken place. With other sources of assurance this now warranted a declaration of full compliance.

Care Quality Commission (CQC) Inspection

RCo reported that an unannounced inspection of the RBH had taken place on 20 and 21 April. The inspectors went to every ward, unaccompanied. The feedback had been that they were very impressed and they commented on the 'extraordinarily' positive comments from all patients, carers and staff which they had not experienced elsewhere. The CQC have suggested improvements in a number of areas, and additional evidence will be sent to them over the next few days.

SRF congratulated RCo and said this was a testament to the good work being carried out by all the staff.

Controlled Drugs

RG presented this section of the report in which incidents reported through Datix and analyses of the results of quarterly audits of the

management of controlled drugs, are reviewed. He highlighted that there had been some incidents involving morphine and oxycodone. Overall the trend of reporting is up, but most incidents are green. This suggested a positive reporting culture. The three main areas of incidence are handling, storage and record keeping.

2011/31 FINANCIAL PERFORMANCE REPORT FOR MONTH 12: MARCH 2011

RP presented the report. In summary he highlighted:

- with a surplus of £1.8m, March had seen the highest activity and best monthly financial performance by the Trust for the whole financial year 2010/11;
- however, a number of one-off items identified when the accounts were finalised, had affected the results. These included stock losses identified at the year end physical inventory; the costs of the MARS exercise; and year-end adjustments to depreciation charged on an estimated basis through the year before being 'trued up' at year end;
- there were also some positive adjustments including a £4m surplus from the revaluation of investment properties, VAT credits and the last tranche of Project Diamond (PD) income for 2010/11;
- the year-to-date (full year) result is a £4.7m surplus against the plan of £2.7 m. The underlying deficit for the year was just over £8m after excluding Project Diamond income and the investment property revaluation surplus;
- Balance Sheet: significant progress in debtor collections. This has enabled the Trust to pay down creditors to close to due date levels;
- capital expenditure was markedly over budget for the year. This has resulted in a cash position of £9m (gross 9m), £4m net of £5m drawn down against the Trust's working capital facility.

RP tabled the Monitor financial submission for Q4 of 2010/11. This had to be uploaded by midnight on the same day. In the previous week the Trust had submitted full-year figures to Monitor. The submission included a statement that the Board anticipated the Trust would maintain a risk rating of at least 3 over the next 12 months. The Board was asked to approve this statement.

The Board decided that it should first consider the next agenda item before a decision on the statement could be taken.

2011/32 STATUS OF THE 2011/12 BUDGET

RP presented the report. He drew the attention of Board members to the following points:

- the paper sets out reconciliation between the budgets as presented in the 30 March Board papers and as at 21 April;
- the biggest single item is additional NHS income of £3.5m;

- the contingency reserve had been increased from £1.5m to £2.5m
- The Board was informed that the draft 2010/11 deficit as of 27 April was in fact £600k higher (now £2.7m) than that disclosed in the Board papers although the 'direction of travel' in terms of the budgeted result was generally favourable.

NH gave an update on recent contract negotiations with commissioners. The Trust had signed Heads of Terms with NW London to the value of £48m for 2011/12 (which compared with £38m for the previous financial year, albeit with £8m of in-year overperformance). At a meeting on 28 April he will be reopening the issue of CF banding income. Emergency readmissions represented a risk of £2m.

Board members had a robust debate and discussion about the Trust's capacity to maintain a risk rating of 3 and Monitor's requirement that the Board make this declaration. They also discussed the financial position and the extent to which the reports of RP and NH and their oral updates sustained the assumption of a balanced budget. NL was especially concerned about the difficult situation the Board was being placed in.

SRF reported that the Finance Committee had discussed the budget in its meeting earlier the same day and had concluded that it was not unreasonable to make the declaration.

BB stated that Project Diamond funding was not a 'fluke'. The Trust had tenaciously obtained what it was rightfully due. Furthermore, the Trust had achieved c. 90% of its 2010/11 cost improvement/financial stability programme and was now seeing improving results. The Board should take account of the intent, the determination and the ambition of management to achieve an FRR 3 rating. As Chief Executive he could not do other than approve the declaration. NC voiced a concern that by mid-year the Trust could be in deficit if results are not closely managed against the budget.

In summary BB said that he felt the Board had had a responsible and sensible discussion which allowed it to approve the declaration to Monitor. This was endorsed by other Board members. It was noted that Monitor's approach requires the Board to put its name to statements about future results before the budget for the coming year had been finalised and approved. The Trust would raise this issue with Monitor.

The Board approved the statement to Monitor that it anticipated the Trust would continue to maintain a financial risk rating of at least 3 over the next twelve months.

2011/33 CAPITAL EXPENDITURE BUDGET 2011/12 AND FUNDING SOURCES

Paper D was presented by RCr and Paper D (i) by PM. PM said that whereas Paper D set out the 8 projects that cannot be managed by the Retained Depreciation Budget, the paper on Funding Sources characterises the projects in terms of investment.

On bank borrowing, NC asked which sort of projects would suit these kinds of finance, and PM indicated his recommendations. NL said that the draft protocol needed amendment, which PM agreed to accommodate.

BB set out the issues the Board should consider:

- it is being asked to endorse a capital programme of £14.5m as set out in Table 2.
- The programme would still leave significant estates and facilities backlog investment requirements.
- The actual potential for borrowing could be well over £10m, allowing for desirable projects and urgent/emergent requirements during the year.

In conclusion he proposed that the Trust should only support the capital it can afford. Any discussion of additional proposals cannot happen without budgets which show affordable borrowings.

The Board agreed with this analysis. SRF then proposed to discuss this further at the next Finance Committee meeting. For information, RP commented that for the additional ward beds proposal at HH, £0.8m is already in the budget in service development. The Board could also consider the long term borrowing authorisation from Monitor which is currently £48m.

The Board APPROVED the capital programme of £14.5m and NOTED the report on Funding Sources.

2011/34 STAFF SATISFACTION SURVEY

Introducing the report, CJ said that positively, 2 out of the 4 highest ranking scores were about the delivery of care. The Trust had surveyed 30% of staff but should consider asking all staff next time, perhaps with an incentive to boost the response rate. She highlighted that two of the lowest ranking scores were about bullying and harassment and equality and diversity training. For the latter the Trust could look at what the Royal Marsden has done as they had scored well on this.

SRF endorsed using the Royal Marsden approach to equality and diversity. The Trust should not tolerate any bullying or harassment whatsoever. He invited AK to comment. She said that smaller numbers are going to the bullying helpline than the survey percentage suggested. Regrettably, there are areas in the Trust where it appears to be tolerated. SRF proposed that a report on these issues should come to the Board in 6 months. This was agreed.

KO emphasised the importance of good communication between senior management and staff. The Trust needs to needs to demonstrate that more listening is being done during times of uncertainty.

The Board NOTED the report.

2011/35 MONITOR ANNUAL PLAN 2011/12 STRATEGY DOCUMENT

Paper F was presented by PM. He described the purpose of it as being to inform the Board of the content of the Strategy Document that will form part of this year's Annual Plan for Monitor.

NL asked about inclusion of risks around the review of paediatric cardiac surgery services. PM reassured NC that this was covered.

Referring to Point 2 on page 4 JH said that there would be an opportunity, with the emerging GP groups, to develop future models for heart failure services.

PM confirmed that Board members who wished to give further feedback should contact him by the end of the first week of May.

The Board NOTED the report.

2011/36 AUDIT COMMITTEE

(i) MINUTES OF THE MEETING HELD ON 1 FEBRUARY 2011

The Board noted the minutes.

(ii) REPORT FROM THE MEETING HELD ON 12 APRIL 2011

NL reported that the committee had examined the following issues:

- the committee had reviewed the internal audit draft opinion: and had concluded that it gave reasonable assurance. It had also looked at the findings on individual projects and the information governance failing. The committee has asked the Director of Finance if the new internal auditors should review all the recommendations to see if they are still relevant. If they are they should stay on the Risk Register with an agree date for resolving the issue. If not they should be deleted;
- the committee had reviewed the draft quality account and received a report from the Director of Finance over controls of capital expenditure.

2011/37 RISK AND SAFETY COMMITTEE

(i) MINUTES OF THE MEETING HELD ON 1 FEBRUARY 2011

The Board noted the minutes.

(ii) REPORT FROM THE MEETING HELD ON 12 APRIL 2011

NC gave a verbal report on the meeting. In summary the Risk and Safety Committee (RSC) had:

- revisited the Board Assurance Framework (BAF) to look the underlying impact and likelihood of each risk and how these are expected to improve. The RSC was assured that the major risks are being managed down. The committee also noted that there were less risks in dangerous areas than 2 years ago and that plans are in place to reduce all the risks bar one which is not moving. A long view of the BAF will be taken in the autumn.
- Monitoring transplant outcomes: the RSC was briefed on current performance and changes to monitoring and alerts proposed by NHS Blood & Transport. The committee was also briefed on actions in hand to get ahead of the curve on the upcoming Transplant Review. The committee felt this may pose a bigger threat than the Paediatric Cardiac Review as a negative outcome would endanger not only transplants but also the Trust's VADs activity.
- Serious Untoward Incidents (SUIs). The RSC reviewed recent SUIs and concluded that the systems and processes in the Trust to analyse and learn from such incidents were working. The committee will look at this in greater depth at its next meeting in July with the aim of looking at how the Trust compares with its peers, examining trends and other factors and can these be mitigated, and drilling down on whether actions identified through root cause analyses really are working to prevent similar incidents happening again.

2011/38 REPORT FROM CHAIR OF FINANCE COMMITTEE (ORAL REPORT)

NL reported that the committee had reviewed the 2011/12 Budget in some detail. The committee noted that it was as yet not finalise but a lot of work had clearly gone into it. It was a 'bottom up' budget and the Board should take some comfort from this. The committee had also finalised its Terms of Reference.

SRF said that he and the Chief Executive attended this meeting as invitees and not members. He noted that the work of whole finance team is very robust and expressed his thanks to that team. It had been a very responsible and encouraging start.

KO commented on the process. She felt that this item should have been heard before the items on the budget. It was noted that the order of the agenda should be amended for the next meeting.

2011/39 ANY OTHER BUSINESS

SRF expressed his thanks to Jenny Walton who is leaving the Charity after 7 years' service.

RCo gave notification to the Board, as required by the Trust's Standing Financial Instructions of the intention to spend £550,000 on the bulk purchase of items for surgical implantation from Edwards Life Sciences.

2011/40 QUESTIONS FROM MEMBERS OF THE PUBLIC

Ken Appel raised the following issues:

- he thanked BB and PM for their contributions to the discussion on future requirements;
- Hertfordshire patients are now starting to be transferred to HH. What can be done to increase bed capacity at HH;
- in the minutes he had noted the shortfall in Private Patients income/activity. What was the cause of this;
- complaints: he noted that too many had not been answered within 25 days.

Replies:

- SRF said that a new hospital at Harefield would be the ideal solution to the capacity issue;
- BB said new beds at HH is a top priority;
- DS said the shortfall was due to delays in the delivery of the additional capacity and that this would be opening soon;
- CS said a lot of effort had been put into improving the complaints procedure. The Trust had decided that, on occasion it is better to answer a complaint more fully and satisfy the complainant rather than rush a response. This had led to a reduction in the number of complaints going to the ombudsman.

2011/41 DATE OF NEXT MEETING

Wednesday 25th May at 10.30 am in the Concert Hall, Harefield Hospital.