A lifetime of specialist care

Royal Brompton & Harefield NHS
NHS Foundation Trust

Minutes of the Board of Directors meeting held on 27th July 2016 in the Boardroom, Royal Brompton Hospital, commencing at 10 30 am

Present:	Mr Neil Lerner, Acting Chairman & Non-Executive Director	NL
	Mr Robert Bell, Chief Executive	BB
	Mr Richard Paterson, Associate Chief Executive - Finance	RP
	Dr Richard Grocott-Mason, Medical Director/Senior Responsible Officer	RGM
	Mr Robert Craig, Chief Operating Officer	RCr
	Mr Nicholas Hunt, Director of Service Development	NH
	Ms Joy Godden, Director of Nursing	JG
	Dr Andrew Vallance-Owen, Non-Executive Director	AVO
	Mr Luc Bardin, Non-Executive Director	LB
	Mr Philip Dodd, Non-Executive Director	PDd
	Ms Kate Owen, Non-Executive Director	KO
	Mrs Lesley-Anne Alexander, Non-Executive Director	LAA
	Mr Richard Jones, Non-Executive Director	RJ
	Pr Kim Fox, Professor of Clinical Cardiology	KF
By Invitation:	Mr Richard Connett, Director of Performance & Trust Secretary	RCo
	Ms Jan McGuinness, Director of Patient Experience and Transformation	JM
	Ms Carol Johnson, Director of Human Resources	CJ
	Ms Joanna Smith, Chief Information Officer	JS
	Mr Piers McCleery, Director of Planning and Strategy	PMc
In Attendance:	Mr Anthony Lumley, Corporate Governance Manager (minutes)	AL
	Ms Gill Raikes, CE Royal Brompton & Harefield Hospitals Charity	GR
	Mr Mark Fenwick, Communications and Public Affairs	MF
	Mr Alistair Martin, Head of Stakeholder Engagement and Campaigns	AM

Apologies: None.

2016/57 DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING

None.

2016/58 MINUTES OF THE PREVIOUS MEETING HELD ON 25th MAY 2016

The minutes were approved.

2016/59 NOMINATIONS AND REMUNERATION COMMITTEE OF THE TRUST BOARD

The Board confirmed the substantive appointment of Mr Richard Grocott-Mason as the Medical Director/Senior Responsible Officer.

2016/60 REPORT FROM THE CHIEF EXECUTIVE

BB gave a verbal report on the following items:

77 Wimpole Street

77 Wimpole Street had opened on Monday 18th July 2016 and in its first week had received 58 patients 44 of which had been for imaging studies. This was an encouraging start.

Kuwait
BB said the Trust had heard last week from the client that the third level of authorisation had been obtained from the Kuwait Ministry of Health, the other two being the religious authority and the contracting authority. The Trust expected to hear from the Kuwaiti Audit Bureau sometime in August / September 2016 and was tracking toward a signed contract in late October.

RJ asked if NHS Improvement's (NHSI) view had been received. RPa said this had been promised for the end of this week (29th July 2016). NHSI had already indicated that they saw this as a material rather than a significant transaction and therefore no further work was required.

Biomedical Research Centre (BRC) Application
BB confirmed that the Trust's application for a BRC had been considered by an international panel on Thursday 21st July. The bid was for £28m over 5 years for a cardiovascular and respiratory BRC. The panel had enquired with interest into what was being proposed rather than challenging the rationale. The Board noted that it would be some months before a decision was made and that the Trust had expended a lot of energy to secure what were relatively small amounts of money. It was noted that designation by the NIHR was more important than the financial value of the bid.

KF said there had been queries as to why there were two separate applications for cardiovascular from Imperial College Healthcare Trust and from RB&HFT.

Congenital Heart Disease (CHD) Proposals
BB reported on the news that NHS England (NHSE) had written to the Trust on 30 June 2016 stating that they were minded to cease commissioning Level 1 CHD services from the Trust with effect from 1st April 2017. The justification cited was that seven out of fourteen standards were not met by the Trust and that NHSE believed the standards would not be met in the next three years. The first he had heard of this was when he received a phone call on 1st July and the letter came the same day. A media embargo was imposed, which the Trust had complied with but it had become a media story. There had been an inference that it was the Trust that leaked the story but BB said this was categorically denied on behalf of the Trust. NL and RCr had written to the Chairman of NHSE on 14 July 2016. To date no written response had been received.

BB said that he had gone through Board minutes dating back to July 2013 and in his Chief Executive's Report he had reported on seven separate occasions on the CHD review process. At the Board meeting held on 29th July 2015 he had stated that the 'revised standards has been approved'. The Trust had waited almost a year for further direction from NHSE. The only direction received was that posted to the Trust on 30th June and this was a unilateral direction without discussion or consultation. Earlier this calendar year the Trust had been asked to self assess against the standards but the next contact was not made until the letter received on 1st July asking the Trust to respond within three working days but less than thirty hours after this response NHSE wrote to the Trust to say its position had not changed. BB added that he had gone through the risk register and amongst the top risks 'failure to comply with external regulations and standards' and with specific mention of CHD alongside other services at risk (CF and ECMO), had been identified. That NHSE had focused on decommissioning was not a surprise but what was a shock and a surprise was the timing, the manner of announcement and the unilateral interpretation of the standard. This would be discussed further in the Part II board meeting.

Second Notification NHSE – ECMO

BB reported that the Trust had received a second notification from NHSE under contract terms to decommission the Trust's ECMO services. This coincided with the departure of nine intensive care consultants to Barts Health NHS Trust. NHSE asserted that our services were no longer viable and would be subject to retendering. BB said this reflected a trajectory of behaviour and given that it was not first time (Safe and Sustainable) there was no doubt that it signified a direction, trend, and an approach to specialist standalone organisations like ours. At the Specialist Hospitals Federation meeting held on Friday 20th July 2016 a lot of attention had been given to the Trust which reflected that we were in the news. BB said in his view this trend was a disturbing one and was a challenge to the core of what the Trust does and which emanated from a select group of individuals within NHSE and a select group of people from medical elites elsewhere in the country. It was not emanating from politicians but from individuals who believed that standalone specialist trusts should be challenged and their services taken over by other centres.

AVO said this was not reported as a risk by the CQC when they inspected the Trust in June 2016. BB said the visit which had occurred on 14th to the 17th June had by all accounts gone smoothly. RCr said the CQC had also been on site on two occasions since inspection. NL said that it was likely that publication of the final report would be substantively delayed.

2016/61 CLINICAL QUALITY REPORT FOR MONTH 1: APRIL 2016

NL thanked RCo for the report and especially the treatment of performance against the Sustainability and Transformation (S&T) Fund trajectories (relating to the 62 day cancer target and 18 weeks RTT). He noted that, notwithstanding the Governance Declarations to be agreed later in this meeting (see agenda item 2016/64) which stated that the Trust had not met these targets for Q1, agreement of the trajectory with NHSI had satisfied the S&T funding requirements for Q1 and payment would be forthcoming. NL added that the majority of S&T money [70%] related to achievement of the control total and not to these indicators. A letter setting this out had come from NHSI. RCo said the Trust would be sharing the Clinical Quality Report with NHSI and NHSE following this meeting.

The Board noted that the clinical challenge – how to meet these targets over the next three quarters - remained.

RGM said it was important for the Board to appreciate the totality of the patients treated for cancer and that all cancer targets other than 62 day wait had been met. NL said the outcomes were outstanding. RGM confirmed that the cancer services review had now been circulated to all Board members and apologised that this may not have been received early enough for some of them to have read it in time for this meeting. The review showed that on average the delay from GP referral to receipt by the Trust had been increasing whereas the time from receipt of the referral by the Trust to treatment had been decreasing. RGM confirmed (in response to a question from RJ) that an Action Plan which included target dates was being prepared.

NL asked if theatre and cath lab cancellations were increasing at Harefield Hospital (HH). RCr said that they were and that the challenge was how to address the problem sustainably. To effect this, work was being done by the clinical teams to identify the root causes, as the cited reason was sometimes symptom rather than source of the problem.

The Board discussed two 52-week breaches of the RTT target. LAA was concerned that in both cases there were descriptions of what happened but no analysis of why and nothing on outcome for the patients. RCr said he had only become aware of the details on receipt of the Board papers and had asked the Clinical Chair and General Manager for explanations. The patient in the first case had just been admitted and the issue was what could be done to ensure that this would not be repeated. NL said he was surprised that Executive Directors had found out about it at the same time as NEDs. He asked RCo to ensure that the outcome for the patient was included in future reports.

AVO asked if the lower figures for safe nurse staffing at RBH in comparison with HH was a temporary blip or a cause for concern. JG said the prescribed formatting in the table could be unhelpful. There had been changes in the staffing cycle which were not reflected in the figures and staffing levels were being monitored appropriately.

Action: Cancer Services Review Action Plan including target dates for the actions to be circulated to the Board (RGM).

2016/62 FINANCIAL PERFORMANCE REPORT FOR MONTH 01: APRIL 2016

RP presented the M03 report which summarised the financial performance of the Trust to 31 June 2016.

- For the third month in succession better than plan in underlying terms. The 2016.17 plan had been amended to reflect £4.8m of S&T funding with the revised £7.5m control total now agreed with the regulator (NHS Improvement) corresponding to a planned deficit for the year of £6.8m. This meant a requirement to reduce the deficit by a further £1.5m but the Trust had a deal that was substantially better than the one originally presented to it by NHSI.

- A YTD deficit of £5.4m offset by some positive aspects: within the plan were contingencies (revenue and cost) which were more conservative than in the previous year. The Trust had not, in the year to date, had to use these contingencies. FSP (Financial Savings Plan) had achieved 90% of plan YTD but RP cautioned that the demands of that would 'ramp up' later in year with a challenge most likely to occur in procurement.

- There were three risks to the plan: firstly, the sale of 151 Sydney Street targeted for the end of September 2016; secondly, the Kuwait transaction scheduled for 1st October 2016; and thirdly, the potential current year impact of the decommissioning of CHD services from 1st April 2017.

Noting that some of the actual YTD results against the planned YTD in the FSP were short of target PDd asked if there were any of concern. RCr said that with the possible exception of agency spend he was less concerned about the pay savings as most, in aggregate, would be achieved. On non-pay, however, the savings target was £3.5m, of which only £1.5m was currently secure. The £2m balance was subject to on-going work. Attempts to lower agency rates had only partly been assisted by the national drive on agency costs (and in fact what progress there had been was as much to do with the Trust's own good work). Retention and recruitment were likely to be affected. The Trust had recently recruited significant numbers (100 plus) of nursing staff from overseas from Spain, Portugal and the Philippines expected to start in September 2016. The Trust was planning on about 80% commencing employment with the Trust. RCr said he concurred with a comment from NL that Brexit had been

unhelpful and had also impacted on the recruitment of overseas staff from countries not part of the EU.

NL noted that the Trust was carrying substantial contingencies against pay and non-pay costs.

In response to a comment from PDd on what the figures in the Capital Report meant in terms of impact NL assured the Board that the Finance Committee had robustly questioned RCr on the figures and the Committee had noted that no particular project was at risk. RCr acknowledged that what was missing was a profile and performance against targets while the 'good news' was also not clear (for instance the reported £7.3m spend in Q1 was very close to the planned spend of for £7.2m).

RP reported that NHSI had last week announced a 'reset programme' for provider Trusts following the DH announcement that it had not breached its expenditure limit for 2015/16. This was likely to be greeted with some consternation as the DH was already projecting a £580m 2016/17 deficit after previously stating that the provider sector would be put on a 'secure footing' this year. *[Secretarial note: the initial 2016/17 control total aggregate amounted to a £580m deficit which was considerably worse than the hoped for break-even position: the reset programme has principally been triggered by the desire to reduce the aggregate projected deficit for 2016/17 to £250m].*

As part of the reset, a new intervention regime with new control measures had been announced by NHSI. Trusts that fell into three new categories would face intervention: control totals not agreed and reporting a significant deficit; failing to achieve control totals and reporting a deficit; and Trusts where a major financial issue had arisen such as fraud. The Trust did not fall into any of these categories but had been categorised as one of 63 Trusts deemed to have excessive pay costs planned for 2016/17. NHSI had asked why and the Trust had replied it was essentially due to projected Kuwait and Wimpole Street pay costs. On 26th July the Trust had received a demand from NHSI for a full analysis of the pay bill for the last three years plus the current year plan. Other elements of the reset programme included a threat to introduce capital expenditure controls from Q3.

RP said in summary that if we 'keep our noses clean' then the Trust should achieve plan but cautioned that the Board should be wary. Proposals for two year tariffs were to be announced shortly by NHSE and contracts with commissioners for both 2017/18 and 2018/19 had to be agreed by December 2016 which was a challenging target date given that one year 2016/17 contracts had not been agreed by any Trust by 31 March 2016. NH added that NHSE had also recently publicised its list of services that would no longer be routinely commissioned which, significantly for the Trust, including the PEARS scheme and ECMO for heart. NHSE had also recently announced the ending of the Commissioning Through Evaluation (CTE) programme which entailed the ceasing of the mitraclip programme from June 21st 2016. This focus on saving money appeared to be at odds with the rhetoric around quality.

The Board noted the report.

2016/63 RISK & SAFETY COMMITTEE (RSC) - UNCONFIRMED MINUTES FROM THE MEETING HELD ON 6 JULY 2016

AVO said the committee had received a good report on the *C.auris* outbreak. In response to question from RJ on whether there had been any new outbreaks JG said that she thought it

was probably moving towards the tail end of the outbreak. Three consecutive months were required to be clear. Two patients were currently colonised.

The minutes were noted.

2016/64 Q1 NHS IMPROVEMENT DECLARATION 2016/17: (i) GOVERNANCE DECLARATION (ii) FINANCIAL SUSTAINABILITY RISK RATING (FSRR)

NL said the capital programme had been intensively debated at the Finance Committee and the answers RCr gave to questions about the Financial Performance Report had also given the board some assurance (see item 2016/62). RCo confirmed that the necessary exception reports had been made. RP said an unplanned significant reduction in income could trigger the need for an exception report. It had been put to NHSI but no answer had yet been received. *[Secretarial note: NHSI subsequently advised that as the NHSE proposals had yet to become definitive the Trust should not report this issue as an exception in its Q1 Governance Declaration.]*

The Board agreed that the following governance statements should be made:

For finance:

a) That the Trust will continue to maintain a financial sustainability risk rating of at least 3 over the next 12 months should be declared 'not confirmed'.

b) That the Board anticipates that the Trust's capital expenditure for the remainder of the financial year will not materially differ from the amended forecast in the financial return should be declared 'confirmed'.

For governance:

That the board is satisfied that plans in place are sufficient to ensure: on-going compliance with all existing targets (after the application of thresholds) as set out in Appendix A of the Risk Assessment Framework; and a commitment to comply with all known targets going forwards should be declared 'not confirmed'.

Otherwise:

that the Board confirms that that there are no matters arising in the quarter requiring an exception report to Monitor (per the Risk Assessment Framework Table 3) which have not already been reported.

Action: Upload declarations to the MARS portal before noon Friday 29th July 2016 to ensure compliance with NHS Improvement's reporting requirements (RCo)

2016/65 RECOMMENDATION OF THE APPOINTMENTS COMMITTEE

The Board were presented with two ratification forms for the appointment of consultant medical staff. The first related to the appointment of a Consultant Fetal and Paediatric Cardiologist and which was a joint appointment between RB&HFT and St Georges University Hospitals NHS Foundation Trust and had been chaired by AVO who presented the recommendation for appointment. The second related to the appointment of a Consultant in Allergy and had been chaired by LB.

The Trust Board ratified the appointments of:

- Dr Beverly Tsai-Goodman as a Consultant Fetal and Paediatric Cardiologist; and
- Dr Guy Scadding as a Consultant in Allergy.

2016/66 SALE OF 151 SYDNEY STREET

RP gave an oral update. The outstanding issues were price, vehicular access and re-provision of Chelsea Farmers Market retail space. The Trust would be meeting with the Royal Borough of Kensington and Chelsea on 4th August 2016 to discuss the access and retail space issues and a week later with Royal Brompton and Harefield Hospitals Charity, the potential buyer, with whom the Trust was hoping to agree Heads of Terms. The sale would hopefully be recommended by the Board at its meeting on 28th September 2016 (if not before) but as it needed approval by the Council of Governors and its next meeting was in November, approval would be requested electronically from the Governors.

2016/67 KENT NEUROSCIENCES HAREFIELD REDEVELOPMENT PROPOSAL AND FEASIBILITY STUDY

NH confirmed that this paper had been seen by the Finance Committee. It had been agreed that it would have been wrong to proceed on a single tender basis. RP confirmed that the tender process was underway.

NEXT MEETING Wednesday 28th September 2016 at 10.30am in the Concert Hall, Harefield Hospital.