

ROYAL BROMPTON & HAREFIELD NHS TRUST

Minutes of a Meeting of the Trust Board held on 27 September 2006 in the Concert Hall, Harefield Hospital

- Present: Lord Newton of Braintree: Chairman
Mr C Perrin: Deputy Chairman
Mr R Bell: Chief Executive
Mrs C Croft: Non-Executive Director
Professor T Evans: Medical Director
Mrs S McCarthy: Non-Executive Director
Mr P Mitchell: Director of Operations
Ms S Ohri: Acting Director of Finance
Dr. C Shuldham: Director of Nursing and Governance
- By invitation: Mrs M Cabrelli: Director of Estates and Facilities
Professor M Cowie: Director of Research and Academic Affairs
Mr R Craig: Director of Planning and Strategy
Mr W Fountain: Associate Medical Director HH
Mr N Hunt: Director of Service Development
Ms J Thomas: Director of Communications
Mr T Vickers: Director of Human Resources
- In Attendance: Mr J Chapman: Head of Administration
Mrs L Davies: Head of Performance
Mr R Sawyer: Head of Risk
Mrs E Schutte: Executive Assistant

Apologies for absence were received from Mrs Jennifer Hill, Professor Anthony Newman Taylor and Ms Josephine Ocloo, Chair of Royal Brompton and Harefield Patient and Public Involvement Forum.

The Chairman welcomed members of the Trust staff and members of the public to the meeting.

REF

2006/107 MINUTES OF TRUST BOARD MEETING ON 26 JULY 2006
The minutes of the previous meeting of the Board on 26 July 2006 were approved.

2006/108 REPORT FROM THE CHIEF EXECUTIVE

Mr Robert Bell referred Board Members to the papers that had been distributed for consideration at the meeting, notably on the Foundation Trust application and the option appraisal for the future of Harefield Hospital and services, and drew attention to one further matter. The Healthcare Commission had reviewed services for children in acute and specialist NHS Trusts in 2005 and had published a report in August 2006. The services provided by Royal Brompton & Harefield NHS Trust had been given the maximum possible rating of "four". This was an excellent result, achieved overall by only 4% of all Trusts reviewed by the Commission and by only two others in London.

2006/109 FOUNDATION TRUST APPLICATION

Mr Robert Craig, Director of Performance and Strategy, presented a report on the application to become a Foundation Trust, approval of which the Secretary of State deferred on 31 July 2006, and subsequent events. Mr Craig drew attention to the Department of Health summary of the submission, the feedback from North West London SHA and the text of a communication from the SHA Chief Executive which gave his reasons for recommending the application to be deferred. Mr Craig asked the Board to note that as a result of a number of discussions with London SHA and the Department of Health officers the Trust had been invited to rejoin the application process and resubmit an application by 3 November 2006 to become a Wave 3a Foundation Trust from 1 April 2007. His report responded in detail to the issues the SHA Chief Executive referred to which related to the strategic risks associated with the future of the Trust's paediatric services, relocation of cardiology services to major acute hospitals and the cost of transplantation services.

Mr Bell said the Trust was disappointed with the decision to defer the application and the reasons had been explored fully with London SHA and the Department of Health. It was clear the Department of Health placed a high premium on the views of the SHA on Foundation Trust applications and it would therefore be necessary to secure a written assurance of SHA support before the Trust submitted another application on 3 November.

In relation to the deadline for a Wave 3a application to become a Foundation Trust the Board discussed two specific issues. Ideally the Department of Health would expect a Foundation Trust to have a full team of Executive Directors in post. The Board was currently

recruiting a new Director of Finance and Performance but the new director was unlikely to be in post before 2007. The Department of Health was however aware of the Trust's sound financial performance over the years and had not so far raised concerns about the current absence of a substantive Director of Finance. Of more concern the results of the option appraisal of the future of Harefield Hospital and services which would be critical to the future of the Foundation Trust would not be known until the end of November 2006. The Board would however be given as clear a perspective as possible at the next meeting on the outcome of the option appraisal. Dr. Caroline Shuldham asked whether there were advantages to delaying the submission until the timetable for Wave 4 applications was known. The Chairman said no details were available yet but there were considerable advantages with a Wave 3 application which, if successful, would result in Royal Brompton and Harefield Hospitals becoming a Foundation Trust at the start of a financial year.

Mr Charles Perrin, Deputy Chairman, supported the proposal that the Trust should proceed with an application to become a Foundation Trust under Wave 3a. It was however absolutely critical that written confirmation of support is received from London SHA. Mr Perrin also said the arguments given in response to the issues raised by the former SHA Chief Executive should be supported with a sensitivity analysis. Mr Bell said this would be undertaken. The Trust would also engage in a professional exchange of views with the SHA and the Department of Health to reach agreement and support before 3 November for a Wave 3a application to become a Foundation Trust from 1 April 2007.

The Board gave full support to the proposal and agreed that it should have a clear written assurance of support from London SHA to the Wave 3a application. Mr Bell said the Board would be asked to review the application and approve the timetable at the next meeting.

Mr Craig also presented a second draft of a proposed annual Board agenda and programme to improve Board effectiveness. The programme was based on a Department of Health model issued in February 2006 and had been discussed at a Board seminar. Mr Craig asked Board Members for comments. Mrs Suzanne McCarthy, Non-Executive Director, said an explanation of the agenda and the programme would be helpful. The agenda and programme should also be reviewed at a future seminar. This was agreed.

Comments from Members of the Public

Mr David Potter, Vice-Chairman of Heart of Harefield and Chairman of Re-Beat, a Patient's Charity, requested that the Chair allow public comment to follow immediately due to the high degree of interest in the Foundation Trust matter.

Mr David Potter said he had attended the 25 September Board meeting of the London SHA. Its present Chief Executive was the second within two months and was only an interim appointment. There were two papers, including one on developing the strategy of the SHA but this was unlikely to be completed before the end of 2007. The London SHA would therefore be unable to make any significant decisions concerning the Trust in the near future. It was occupied with fire-fighting and working on its large financial deficit. Mr Potter stated that if it were a public company he would not buy shares in it.

Mrs Jean Brett, Chair of Heart of Harefield, explained that she was speaking on behalf of the public and MPs who could not be present. The Trust's Foundation Trust application not having been successful had not been a surprise to her. Warnings had been given that the application had been undermined at the Department of Health from within the North West London Strategic Health Authority.

Such an action would be illogical. Royal Brompton & Harefield's application was sound. It was financially stable and was the only three star specialist Trust in the country in 2005. However, following the surfacing of a 4 July 2006 email from the former Chief Executive of the NWLSHA to the Department of Health the suggested bias appeared proven. Despite Heart of Harefield having refrained from publishing this email on reflection it understood the Trust's need to do so in its Board papers.

Mrs Brett quoted from Appendix A4 of the Board papers in which Dr. Goodier wrote that he "believed personally" that the FT application should be deferred and that "the strategic risks to the RBH are probably greater than for any other acute Trust I know. At one extreme RBH could end up as a few wards servicing adult heart and lung pathology on the Hammersmith hospitals site. At the other extreme, which is the Trust's current thinking, it would involve a £20 million rebuild of the Harefield site with all of the inherent clinical governance risks."

These statements could only be seen as extreme bias against the Royal Brompton & Harefield NHS Trust. Where there had been proven risk to patients, within Dr. Goodier's NWLSHA area, was not, in her view, at Harefield, a specialist Trust, but at Northwick Park Hospital, which is a general one. Ten patients had died within its maternity department which was why it had been put under special measures.

The present situation was that the Department of Health was very embarrassed about the decision which it had made on the FT application. Mrs Brett had written to Andrew Cash of the DoH on this matter and had also met with the Acting Permanent Secretary of the DoH on 26 September with David Potter. However, what was vital was that before going forward again steps should be taken to prevent a recurrence.

The objections put forward in July 2006 by the NWLSHA's Chief Executive had no substance. Mr Craig's report within the Board papers was excellent on this. With 80% of the Trust's income coming from outside London it was secure from problems affecting London itself. Similarly, the excellence of its paediatric care, in contradiction to Dr. Goodier, had been proven by the recent independent Healthcare Commission report, which judged the Trust to be one of the best three in the London area. On this it was rated with Great Ormond Street.

Risks to the Trust's income due to some of its work passing to local general hospitals had also been overstated by the Chief Executive of the NWLSHA. Lack of specialist skills and the financial problems at Watford General and at Hillingdon made them unable to take on such work in the foreseeable future.

Mrs Brett emphasised that Heart of Harefield did not consider that the Foundation Trust application of the Trust had been treated in the correct professional manner. It had been unjustly rejected. The unsolicited offer to Heart of Harefield of £100,000 if it wished to go to judicial review on this matter had been welcome. Both the new London SHA and the DoH had made clear their wish for HoH not to take up this offer. On their part was a desire to make amends and to progress a further FT application.

Heart of Harefield agreed with the Trust's decision to resubmit its FT application, while also putting on record Heart of Harefield's support and sympathy for the Trust staff and the Non-Executive Board

Members who had worked without stint to put in the earlier application. It was an application which should have been successful.

The Chairman thanked Mrs Brett for her comments and said that the Board was grateful to Heart of Harefield for the strong support it was giving the Trust for Foundation Trust status. The Trust was concentrating on getting the application right.

Mrs Pauline Crawley, Chair of the Harefield Tenants and Residents Association, speaking on behalf of the residents, made clear that she had studied the Board papers. Mrs Crawley said that she was appalled and angry that one person could have so much influence on the Foundation Trust application when she felt his sole purpose in life appeared to be to trip Harefield up.

2006/110 DIVERSITY AND EQUALITY

Mr Patrick Mitchell, Director of Operations, informed the Board that Johannes Fassell had been appointed as Diversity and Equality Manager. Mr Fassell had previously held a similar post at North West London SHA. One of his main tasks would be to produce a single equality scheme for the Trust, for which it was a NHS pilot site.

2006/111 REDEVELOPMENT OF HAREFIELD HOSPITAL AND ITS SERVICES

The Board received a progress report from Mr Patrick Mitchell on the Redevelopment of Harefield Hospital and its services. On consultant appointments, a consultant psychiatrist was expected to be appointed by late Autumn and it was hoped to agree routine consultant surgery cover from Hillingdon Hospitals NHS Trust by the end of November. An advertisement for eight new consultant posts had been published and appointments were likely to be made in October and November.

The renovation of the thoracic theatres and inpatient facilities at Harefield Hospital had been delayed by ten weeks, most of which was the consequence of planning concerns raised by the local authority. The construction work was expected to commence in December and it was hoped to make up for the delay during the construction period. Mr Mitchell confirmed the delay had not had cost consequences.

Matrix Research and Consultancy had been engaged to undertake the option appraisal on the future of Harefield Hospital and services and was expected to report later in November.

The Chairman asked about the relationship between the timetable for production of the option appraisal report and the timetable for review and decision on the Trust's revised application for Foundation Trust status after submission on 3 November. Mr Mitchell said the Trust had given a commitment to the SHA to complete the option appraisal by the end of November and recommend a decision to the Board at the meeting on 20 December. The Board would be informed of progress with the option appraisal and given as clear perspectives as possible on the outcome at the meetings on 25 October and 22 November and the Department of Health would be advised accordingly. Mr Perrin commented that Hammersmith Hospitals NHS Trust had indicated it wished to engage in the option appraisal and wished to see the report. Mr Mitchell said Matrix would verify the interests of all relevant Trusts in the various options, consult with them and the Board would be informed of the views that emerge. Some options might be eliminated before the Trust Board meeting on 22 November. The Trust would also forward the option appraisal to London SHA so that it could take account of it in its strategic review. Advice was currently being sought on how the option appraisal would be dealt with by the SHA and the Department of Health.

The Board noted Mr Mitchell's report.

Comments from Members of the Public

Mr Don Chapman, Vice-Chairman of Harefield Hospital League of Friends, expressed great disappointment that Mr Mitchell's report made no reference to the future of the Mansion at Harefield Hospital which was a building of historical importance and the fourth in Harefield that a public authority had allowed to become dilapidated. Mr Chapman said that while it was understood that public funds were not available to restore the Mansion there were surely individuals or organisations that had access to funds to restore it.

The Chairman said the Board was mindful of the condition of the Mansion and of views that had been expressed. Approaches to other sources of funds had been made without success. Mr Mitchell said the Trust had spent funds on preventing further deterioration of the Mansion. The future of the building and all other buildings on the Harefield site would depend on the outcome of the option appraisal.

2006/112 RESEARCH AND DEVELOPMENT REPORT

Professor Martin Cowie, Director of Research and Academic Affairs, presented a report to the Board. The Trust bid to become a specialist biomedical research centre would be submitted to the Department of Health by 13 October. The Department of Health had confirmed that it was aware of the Trust's research record in heart and lung diseases and it was likely to allocate funds at the upper end of the range between £3 million and £6 million per annum over five years. The Department of Health had also indicated that the allocation was not a substitute for the current £28 million research and development subvention. It continued to hold a very large sum in the research and development budget and had yet to decide how bids for it should be made.

A review of research governance had taken place and the reporting structure had been embedded within Trust clinical governance. The Joint Research Committee would be restructured by the end of 2006. Mr Charles Perrin, Deputy Chairman, had become a member of the committee. Oxford Management Consultancy was currently undertaking review of all aspects of clinical trials activity and was expected to report in November.

The Board noted Professor Cowie's report.

2006/113 CLINICAL GOVERNANCE REPORT

Dr. Caroline Shuldham, Director of Nursing and Governance, presented a report on clinical governance for the first quarter of 2006/7 which had been reviewed by the Trust Audit and Risk Committee and drew attention to four issues. An increase in the number of green, yellow and amber- graded adverse clinical events had been reported and clinical governance was monitoring the position. One serious incident that resulted in the death of a patient at Royal Brompton Hospital was reported to the SHA. A disruption of the electricity supply to Royal Brompton Hospital had occurred in the first quarter. An external power failure occurred and when the supply was restored to the hospital, did not work in some areas and the generator did not take over. No impact on patient care resulted. Remedial works were undertaken and a change in generator testing arrangements was made.

Surgeon and site-specific risk-stratified adult cardiac surgery data was published by the Healthcare Commission on a public website in April giving survival rates for first-time CABG operation, first time aortic valve replacement operations and all other cardiac surgery

from 2002 to 2005. The results for Harefield Hospital were “as expected” and for Royal Brompton Hospital CABG and all other surgery “better than expected”. The Health Service Ombudsman had published a report of a review of a 2001 complaint on the treatment of a patient at Harefield Hospital and his death four days after discharge. The Ombudsman recommended the Trust to publish a protocol on prevention of contrast nephropathy. The protocol had been written and put on the Trust Intranet.

The report also included the 2006/7 infection prevention and control annual programme which Dr. Shuldham asked the Board to ratify. The Board approved the programme.

The Chairman noted that the report referred to the death of a patient in Chelsea and Westminster Hospital following transfer from Royal Brompton Hospital, as a result of which non-cardiothoracic support to Royal Brompton Hospital had been reviewed and he asked what the outcome was. Professor Evans said the review took place as clinical governance had to be certain medical staff knew how to obtain support from specialties outside Royal Brompton Hospital when a patient’s treatment required it. The review concluded clinical support was complete and robust.

The Chairman also commented on information given in the report on requests to the Trust under the Freedom of Information Act and asked what had been the Trust’s experience. Dr. Shuldham said responding to FoI requests had generated a huge workload for the Trust and a review on managing data to ensure compliance with the legislation was taking place. Mrs Suzanne McCarthy said the Audit and Risk Committee had discussed the subject and would be examining the number of requests and the Trust’s performance in responding to them. The Board would be informed of the results through reports and minutes of the Committee meetings.

The Board thanked Dr. Shuldham for a comprehensive report.

Comments from Members of the Public

Mr Kenneth Appell, a member of the Royal Brompton and Harefield Patient and Public Involvement Forum, congratulated Dr. Shuldham on the presentation of statistics on adverse clinical events in the Trust which were of much interest and were helpful to the Forum in its work with the National Patient Safety Authority on preventing the occurrence of adverse events in patient treatment and care.

2006/114 PERFORMANCE REPORT FOR AUGUST 2006

Ms Sheila Ohri, Acting Director of Finance, gave a report on the financial performance of the Trust up to 31 August 2006. The Trust had reported a cumulative surplus of income over expenditure of £4.6 million against a planned surplus of £4.8 million. At the start of 2006/7 the SHA informed the Trust it would be required to deliver a full year budget surplus of £2.1million; this had been increased by £1.2 million to £3.3 million on 17 August. The increase represented the £1.2 million "loan" given to the SHA in 2005/6 which would not now be repaid. Ms Ohri indicated that although an adverse variance of £150,000 was reported for August 2006 the Trust's financial position remained healthy. It would however need to generate additional savings to mitigate SHA retention of the £1.2 million loan on the delivery of the 2006/7 financial target.

Income from Private Patient Services continued to exceed plan and the Trust had over-performed by £600,000 against SLAs for NHS services. It was expected that over performance would be paid for in the second half of the year. Pay budgets were overspent by £1.4 million mainly as a consequence of unfunded posts in anaesthetics, increased nursing costs following extension of the availability of the High Dependency Unit at Harefield Hospital throughout the week and the shortfall in delivery of the cost improvement programme. The Trust was confident it would deliver the financial plan for the year.

Ms Ohri also referred briefly to the development of a financial planning reporting system which would provide more detailed financial analysis for managers and improved performance reporting. The Finance Committee would review the system at its next meeting in October and report to a subsequent Board meeting.

Mrs McCarthy observed a further reference to a long-standing debt of BUPA to the Trust and asked for a report to the next Board meeting on what action, beyond reviews, would be taken to recover it.

Mrs Lucy Davies, Head of Performance, presented a report on operational performance. The report was in a new format consistent with the Trust performance strategy and recommendations of "The Intelligent Board" published in February 2006. At 31 August the Trust was compliant with all key performance indicators except the 62 day target for treatment of cancer patients, the ratio of new to follow-up patients and sickness absence rates. The Chairman expressed concern about breaches of the cancer treatment target

and observed that nine of the eleven breaches occurred before the patient had been referred to the Trust by another hospital. Professor Evans said the Trust was engaged with the consultants at the referring hospitals to resolve the matter.

The Board noted the report and agreed the new format was helpful in monitoring operational performance.

2006/115 MINUTES OF MEETING OF THE AUDIT AND RISK COMMITTEE ON 22 JUNE 2006

The Board received and noted the presented minutes of the first meeting of the new Audit and Risk Committee on 22 June 2006.

2006/116 REPORT FROM MEETING OF THE AUDIT AND RISK COMMITTEE ON 21 SEPTEMBER 2006

The Board noted a report from the Audit and Risk Committee on matters considered at a meeting on 21 September.

2006/117 STAFF RETIREMENT POLICY

Mr Tony Vickers, Director of Human Resources, presented a new policy on staff retirement. All organisations were required to introduce a policy to comply with the Equality Act 2006 and the Employment Equality (Age) Regulations 2006 which gave statutory rights to employees to be treated equally over retirement and the right to request to continue working beyond the normal retirement age of 65. The policy aimed to provide fair and equal treatment for all Trust staff, ensure staff are prepared for retirement, take account of the need for a balanced age structure within the Trust workforce and support the Trust commitment to a diverse workforce and the Diversity and Equality Policy.

The Board approved the Policy.

2006/118 REGISTER OF THE SEAL OF THE TRUST

The Chairman signed three entries in the Register of the Application of the Seal of the Trust to legal documents.

2006/119 NEXT MEETING

The next meeting of the Trust Board would take place on Wednesday 25 October 2006 in the Concert Hall at Harefield Hospital commencing at 10.30am.

**Lord Newton of Braintree
Chairman**