Royal Brompton & Harefield NHS
NHS Foundation Trust

Minutes of the Board of Directors meeting held on 28th April 2010
in the Boardroom, Royal Brompton Hospital commencing at 2.00p.m.

Present: Sir Robert Finch (Chairman)
Mr R Bell, Chief Executive
Mr R Craig, Chief Operating Officer
Mrs C Croft, Non-Executive Director
Mr N Coleman, Non-Executive Director
Professor T Evans, Medical Director
Mrs J Hill, Non-Executive Director
Mr R Hunting, Non-Executive Director
Mr M Lambert, Director of Finance & Performance
Mr N Lerner, Non-Executive Director
Professor Sir Anthony Newman Taylor, Non-Executive Director
Dr C Shuldham, Director of Nursing, Governance & Informatics
Mr D Stark, Trust Secretary & General Counsel

By Invitation: Ms J Axon, Director of Capital Projects and Development
Mr R Connett, Assistant Director – Head of Performance
Mr R Goodman, Director of Pharmacy & Medicines Management
Ms M Haines, Senior Nurse/Modern Matron
Mr N Hunt, Director of Service Development
Ms C Johnson, Director of Human Resources
Mr P McCleery, Director of Planning & Strategy
Mr D Shrimpton, Private Patients Managing Director
Ms J Thomas, Director of Communications
Ms J Walton, Director of Fundraising

Apologies: None

In Attendance: Mrs R Paton (minutes)

The Chairman welcomed everyone to the meeting and, in particular, Mr Neil Lerner who was attending for the first time as Non-Executive Director.

2010/33 MINUTES OF THE PREVIOUS MEETING HELD ON 24TH MARCH 2010

The Board approved the minutes with the following amendment:
Item 2010/18, Page 3, paragraph 2, from line 7 should read "The Chairman thought ICT was grappling with financial issues of its own. Mr Bell said there was clearly a change in attitude from ICT who were now looking more positively at a joint structure and were talking about a "healthcare system". Mr Bell had sensed that ICT would have preferred their Chairman, Lord Tugendhat, to have been present at the meeting. Professor Newman Taylor, Non Executive Director, agreed with this and felt there had been a shift in ICT's outlook."

2010/34 REPORT FROM THE CHIEF EXECUTIVE

Mr Robert Bell, Chief Executive, updated the Board on the following items:

- The National Review of Paediatric Cardiac Surgery

Mr Bell reminded the Board that the National Specialised Commissioning Group (NSCG) had appointed Sir Ian Kennedy as Chair of a review panel to deliver recommendations for the future configuration of children's heart surgery services in England. A delegation would visit the Trust in early June to examine and

investigate, and would report back to NSCG. Mr Bell reported that on April 14th he had met with the Chief Executives of Great Ormond Street Hospital (GOSH) and Guy's & St Thomas'. Pressure was being applied to the Brompton to transfer its paediatric cardiac services to GOSH. At the meeting on 14th April, Mr Bell had refused this option but had agreed with the proposals already developed in January 2009. Mr Bell had already agreed to a London-wide clinical collaborative network of care for paediatric cardiac surgery in London to facilitate the optimal placement of patients. Mr Bell agreed to be a part of the structure as long as the Trust remained integral to it but had emphasised the Trust would not voluntarily surrender patients. Thought must be given to the consequential impact that loss of the service would engender on congenital heart disease services. He reminded the Board that as an FT our terms of authorisation stipulate the services we are required to offer; to surrender any of these would likely render the Trust in breach of its FT authorisation. Furthermore, in order to achieve this, services would have to be de-commissioned and currently Commissioners do not seem interested in the situation. Mr Bell confirmed the Trust has to make provision for its patients and clinically it was not able to continue to deliver paediatric intensive care and paediatric cardiology if it did not have a paediatric cardiac surgery service. Professor Newman Taylor agreed and added that if this plan went ahead, the Trust would not be able to deliver its paediatric respiratory service and would consequentially jeopardise the largest cystic fibrosis clinic in Europe together with the gene therapy research programme.

Mr Bell continued that the national review standards indicated that the two key criteria for designation for paediatric cardiac surgery is that the centre should have a threshold of 400 cases per year and have a minimum of 4 cardiac surgeons. There are only three centres in the country which fulfil these criteria and this Trust is one of them. Mr Bell could therefore not understand why the Trust had been asked to surrender this service. Mr Bell reported that the London Commissioning Group had indicated they would leave the decision to the National Committee. Mr Bell confirmed the Trust had agreed to take part in a network, the terms of which were to be developed, and that Mr P McCleery, Director of Planning & Strategy, would be a member of the Taskforce.

Mrs J Hill, Non-Executive Director, asked how this situation interfaced with the cardiovascular review. Mr Daryl Shore, Consultant Surgeon, confirmed that details of the initiative entitled "The Case for Change" was on the DoH website and was largely concerned with improving the quality of care and support systems.

Professor T Evans, Medical Director, reported he had held two meetings with the Chairman of the Vascular Pan-London Review. He confirmed there were significant opportunities for the Trust to co-operate and collaborate to develop a bid to be a provider for acute aortic surgery. Professor Evans said it was envisaged to develop a partnership concept around a three-site to single-access service - HH, RBH and ICT.

Mr Bell turned to the subject of the NW London configuration. He reported there was a complete re-think going on about NW London and there is now a request to engage the services of McKinsey. Mr Bell had confirmed the Trust would participate with the plans but would not become financially involved. Mr N Lerner, Non-Executive Director, commented that we are now witnessing what happens when the situation moves from a planned to a market economy.

The Chairman confirmed that he and the Chief Executive were to meet with Mary Archer about the idea of an institute of transplantation based in Cambridge. The Chairman further confirmed that Papworth Hospital wanted to secure their PFI scheme (they had received a verbal endorsement from the DoH, but not a written one). Mr Bell reported that the National Commissioning Group was interested in our idea of seeking alliances in transplantation.

2010/35 PATIENT SAFETY & OPERATIONAL REPORT FOR MONTH 12: MARCH 2010

Mr M Lambert, Director of Finance & Performance, introduced the report for Month 12 and highlighted the following exceptional items:

- HCAIs: There had been an outbreak of vancomycin resistant enterococcus (VRE) infection during February / March 2010, with one case of VRE bacteraemia being reported to the Health Protection Agency in February. There had been no cases of MRSA bacteraemia in March 2010, and therefore no cases for the full year at year-end. There had been 9 cases of C.difficile.
- SUIs: 4 serious untoward incidents came to light in the month of March. Of the 4 SUIs, 2 were due to maternal deaths of patients with H1N1 influenza. Reporting of all maternal deaths, and deaths of patients suffering from H1N1, is a mandatory requirement. A further SUI was the death of a patient following a CABG, and the fourth SUI was the death of a patient attending for a routine out-patient appointment where there had been an issue with the supply of an oxygen cylinder at the time of handover from the ambulance. Dr C Shuldham, Director of Nursing & Governance, confirmed the incident was being investigated and a full report would be prepared. Mr Lerner asked why these incidents which had occurred at various times had been reported in April. Dr Shuldham explained that there can be some delay to allow an investigation to take place to determine whether there is a SUI involved. Items are investigated in order to prevent reoccurrence and time is taken to allow communication with patients' families. At this juncture, Mr Coleman, Non-Executive Director, emphasised the importance of root cause analysis.
- Surgical Site Infection Surveillance Service (SSISS): The Trust position at February 2010 was 5.26% against a national average of 4.5%.
  Mr Daryl Shore, Chairman of the Wound Infection Prevention group gave an update to the Board. Mr Shore confirmed the Trust compared itself against the national rate but that there was a very wide variation in reporting to the Health Protection Agency amongst those involved. There was also a matter of accuracy in reporting and some studies of sites had shown more actual SSI than had been reported. For Coronary Artery Bypass Grafts (CABG) since Q2 2009 the infection rate at HH had been at or below the national average and for RBH the rate had been at or above the national average. Mr Shore confirmed there had been an overall decline in the last year in the rates of infection in the Trust. The SSI rate for CABG for March 2010 had been 4.65 at RBH and 3.45 at HH, which is rapidly approaching the national average. Infection rates for valve patients, i.e. patients without donor site, are less. It was felt infection rates could be driven down with better control for diabetic patients where the SSI rate is three times greater than in other patients. Only 35% of diabetic patients at RB had satisfactory control and 40% at HH and diabetic management is to be reviewed. The introduction of endoscopic vein harvest at RBH had delivered significant reduction in the number of donor site wound infections, achieved earlier at HH. Mr Shore confirmed that future goals included: concentrating on reviewing the clinical path for diabetic patients, further expansion of the technique for endoscopic vein harvesting and continuation with SSI prevention care bundle compliance

monitoring.

Mr N Coleman, Non-Executive Director, reported the Audit & Risk Committee (ARC) had looked at the area of SSI and had concluded the Trust was moving in the right direction but that it was too early to confirm if assurance had been provided. Professor Newman Taylor agreed that appropriate actions had been taken but that time was needed to see if infection rates had been affected on a long-term basis.

- Cancelled operations were underachieved at 0.91% against the target of 0.8%.
- Cancer: 62 day urgent GP referral to first definitive treatment. There had been a slight discrepancy between our own reporting level and that held on the national Open Exeter (OE) system. This situation is under investigation in order to ensure data is consistent The DoH has allowed the Trust an additional tolerance of 6% equating to a target of 79% which was achieved.

Section 3. Controlled Drugs Governance and Activity
Richard Goodman, Director of Pharmacy & Accountable Officer – Controlled Drugs, presented the report to the Board which was the third of its kind and focused on the period October to December 2009, but also reflected the whole year. Mr Goodman confirmed there had been an overall slight reduction in reported incidents in this quarter, that there had been no reports relating to potassium and a reduction in morphine incidents. There had been 25 green and one amber incident reported. Mr Goodman explained that there were always human factors involved in how medicines are given, and it was impossible to eliminate incidents some times; the Trust was minimising risk as much as possible and was not complacent. Mr Goodman reported that 32 quarterly audits had been completed in January 2010 (i.e. reaching 100% target). There had been some improvement in PICU reporting.

Section 4. Care Quality Commission (CQC) Registration Outcome
Mr R Connett, Assistant Director – Head of Performance, updated the Board on this item. Mr Connett confirmed that the Trust fully complied with 15 of the 16 CQC Essential Standards of Quality and Safety but he had been contacted by CQC yesterday in relation to the Trust returning a declaration of "insufficient assurance" in relation to the Fire Code declaration. The report will therefore now need to be updated. Mr Connett said the declaration of "insufficient assurance" in relation to the Fire Code would not affect the overall registration and the CQC would not be imposing any condition on the Trust's registration. Going forward, the CQC would monitor our delivery of the action plan which is to be completed by 31st July 2010. Mr Connett understood that some of the related work would need to go out to tender which might cause a delay and Mr Lambert and Mr Craig agreed to discuss the most expedient way to procure relevant assistance. Mr Bell confirmed that Monitor would have to be notified in respect of our non-compliance on one of the sixteen items and also in the preparation of our quality accounts – we cannot declare full compliance.

Section 5. Governance & Quality Q3 Summary Report
Mr M Lambert, Director of Finance & Performance, confirmed the report had been submitted to the Audit & Risk Committee yesterday.

Section 6. Modern Matrons' Report
Mary Haines, Senior Nurse & Modern Matron, presented the report to the Board.

Hospital Cleanliness Update
Senior Nurse Haines reported that cleaning scores had improved over the last quarter with an overall annual cleanliness score of 91%. The introduction by ISS Mediclean of an experienced contracts manager had facilitated this improvement. The Trust had undergone a Patient Environmental Action Team (PEAT) inspection in February 2010 when a score of 94.5% was achieved against 7 standards. Great improvements continue to be seen in the management of clutter and storage spaces across the Trust, with two recent de-clutter days being welcomed by the staff.

Estates & Facilities
Senior Nurse Haines emphasised that refurbishment and on-going maintenance was absolutely essential to keep the environment in a state of good repair, not only enhancing appearance but helping to minimise infection. The Modern Matrons requested the Board to continue to support the Estates department in the maintenance and refurbishment programme. Mr Craig, Chief Operating Officer, confirmed there had been a quota of essential maintenance undertaken but the aim was to resource continued and steady improvements together with quick response. Mr Craig confirmed that Mr S Moore, Head of Estates & Facilities, understood the requirements but current involvement with some large projects might cause delay.

Hand Hygiene
Senior Nurse Haines reported that compliance with the initiative remained static at 61-77% but that much effort was being made to achieve more. This compliance was audited by observation, with any non-compliant staff being apprised of any shortcomings. There remained a problem with some clinicians with hand washing and the 'Bare Below the Elbows' policy. At this juncture, the Chairman emphasised the message on hand hygiene needed to reach staff and be adhered to.

Section 7. Review of the Response to the H1N1 Flu Pandemic 2009/2010
Mr R Craig confirmed the report had now been signed off by the Chief Executive and submitted to NHS London in March 2010, as requested. Mr Craig wished to record his thanks to Ms Joy Godden, General Manager – Respiratory Medicine, who had been Trust lead on this initiative, for the excellent job she had undertaken.

Mrs J Hill, Non-Executive Director, referred to performance indicator on Complaints. She understood some complaints were very difficult to resolve and that the 25-day response time could sometimes be insufficient. However, she said she would appreciate having more information on complaints received by the Trust, particularly those that are not closed out within the stipulated 25 days, and for how long. Mrs Hill felt it might be helpful if NEDs could achieve some understanding of this area. It was agreed that Mrs Hill and Dr C Shuldham, Director of Nursing & Governance, should liaise on this topic and that Mr N Coleman, as Chair of the Patient Safety Committee, should be copied into complaint data.

Commissioning Update
Mr Lambert circulated the update at the meeting. Mr Lambert confirmed the Trust was in dispute with the East of England Specialised Commissioning Group (EOESCG) and the NW London Commissioning Unit (NWLCU). Mr Lambert explained that the procedure for handling disputes is set out in the NHS contract and that this dispute will go to mediation and possibly on to independent

arbitration (the so-called 'pendulum' arbitration, i.e. winner takes all). The Board felt this situation might have an effect on the final figures. Mr Hunt, Director of Service Development, said it was clear that for the future a more rigid adherence to contractual requirements would be needed and action had been taken to ensure the issue could not recur. Mr Hunt said this dispute was the first of its type for the Trust as an FT. Mr Bell said we had to be wary of taking a stance of 'FT versus NHS' - Monitor say our contracts are legally binding.

Mr N Lerner, Non Executive Director, commented that the type of arbitration involved here was unusual. Mr Lambert thought the resolution would be completed before the Trust accounts were finalised and Mr Lerner emphasised that timing in relation to the accounts was critical. Mr Bell said the issue would have to be reported to the Governors. Mr Lerner emphasised that the Auditors needed to know exact information and Mr Lambert confirmed he had arranged prudent provision and that the Auditors were aware of this. Mr Lambert explained that the provision made had wiped out the revaluation gain on Chelsea's famous market. Messrs. Lambert and Lerner agreed to liaise on this issue.

2010/36 2010/11 BUDGET SETTING / ANNUAL PLAN UPDATE

Mr P McCleery, Director of Planning & Strategy, presented the updated budget position for 2010/11 and the Annual Plan financial requirements for submission to Monitor. The Board discussed the quality of the template provided by Monitor which was found to be inadequate, with not enough space allowed in the table cells. The previous budget submitted to the Board had not included funding for non-pay inflation or incremental drift, or the fact that the Trust was not holding a contingency reserve as in previous years. These items had now been reinstated within the budget.

Mr Bell reported there had been change at Monitor with a new Chairman and Chief Executive, and thought maybe their approach to authorisation might now be different.

Mr Coleman referred to the Annual Plan and said he was concerned that contracts were still in dispute and there were some cost pressures still with 58% of FSP undefined. His overall view was that this plan was probably not going to be achieved. Mr Hunt referred to the 2010/11 contract and said that in terms of total income value we were over 75% agreed. For the future we are making sure that at the time of the agreement the sum of money for the year is agreed and that we secure a statement giving assurance to pay for over-performance.

Mr Bell said the year ahead would be difficult. Mr Coleman asked if the Trust should be planning for a cushion surplus and Mr Bell agreed with this but asked where this surplus might come from. Mr Hunt confirmed that more people were consolidating work on what they regarded as the better organisations, e.g. the Trust was in discussions about being the preferred London provider for South Central. Mr Lerner said he felt the plan was an heroic one and asked what were the implications for the Trust if it was in a deficit position next year – should that be pre-empted now by accepting this as a potential outcome? Mr Bell replied that the Trust should be growing income and reducing costs and undertaking a more aggressive cost improvement. The Trust could rescale the service, but it could not scale down the operation - an FT does not have the power to withdraw a service.

Mr Craig reminded the Board that the paper before them was not a plan but was

an update, saying that a gap of £7.5m is not a plan. The issue is that the Board needs to sign off on this before submitting to Monitor.

Mr Lambert agreed to produce further particulars on what the plan is to be submitted to Monitor with a view to being discussed by the Board in early May.

2010/37 HAREFIELD ARCHITECTS APPOINTMENT

Sir Michael Partridge, Chairman – Harefield Master-Planning Group (HMG) presented the report to the Board. Sir Michael confirmed that Ms Joanna Axon, Director of Capital Projects & Development, had been working with the HMG on the initiative. The paper outlined the procurement process undertaken for the selection of architects to undertake the master-planning of the Harefield Hospital site. Following a long history at HH of planning for the hospital, the Trust now as an FT was able to take control of this. An advertisement placed in the Official Journal of the EU for the contract had resulted in over 30 expressions of interest. 26 pre-qualification questionnaires (PQQ) were returned and following ranking of these, six architects were invited to tender. A seminar was held at HH where two preferred firms of architects had presented to clinical and other staff. Following this process the HMG recommended to the Board that the firm *Llewellyn Davies Yeang* (LDY) should be appointed.

The Chairman commented that LDY had demonstrated an understanding of Hillingdon together with the application planning and strategy which would be involved. Sir Michael confirmed that LDY's fee had been almost identical to that of the other preferred company.

The Board approved the appointment of *Llewellyn Davies Yeang* as Master-Planning Architect and Design Team Lead for the Harefield Hospital site. The Board also approved the company's fees + VAT.

2010/38 RECOMMENDATIONS OF ADVISORY APPOINTMENT COMMITTEE

The Board received the recommendation for the appointment of:

Dr Michael Loebinger as Consultant in Respiratory Medicine with special interest in Lung Infections
Dr Uta Bellin as Consultant in Anaesthesia
Dr Paul David Harris as Consultant in Anaesthesia
Dr Sundeep Kaul as Consultant in Intensive Care
Dr Sarah Stirling as Consultant in Intensive Care

The Board approved the recommendations.

2010/39 AUDIT & RISK COMMITTEE (ARC)

(ii) Minutes of Meeting of 19 January 2010

Mr Coleman confirmed the minutes had been approved by the ARC at its meeting on 27 April 2010 and were now submitted to the Board for information.

(ii) Report from Meeting of 27 April 2010

Mr Coleman reported that the ARC meeting on 27th April had been taken in two parts: Audit, and Risk/Safety, as a rehearsal for its split into two committees, and it had worked well.

Mr Lerner summarised the key points from the Audit part of the meeting: The committee had reviewed the list of tender waivers with the request that the form be changed in future to highlight more important tender waivers which could be

focused on by the committee. The 2010/11 audit plan had been reviewed and approved but the committee asked that additional days should be allocated to give complete assurance on the business assurance framework. The committee had requested that internal audit, in conjunction with clinical audit, should give some assurance on the magnitude of residual risk. The draft annual accounts were not ready for review but would be circulated in the next two weeks to the ARC with a teleconference to discuss if necessary. The latest draft Quality Accounts had been reviewed and the committee made some suggestions on how to present a more positive view on Trust performance and activity on the international arena. The external audit was at an early stage - Deloitte would do a review of the Quality Accounts but Monitor had to finalise their requirement in respect of this. The counter-fraud plan had been discussed and Mr Lambert had been asked to look at the amount which is spent on counter-fraud relative to the risk. At this juncture, the Chairman asked if the simplification of Board papers had been discussed. Mr N Lerner had discussed this with Mr Lambert but more time was needed on this item, probably together with input from Deloitte. This would be done after the finalisation of the accounts.

Mr Coleman summarised the key points from the Risk & Safety part of the meeting:
Surgical outcomes at Harefield. The committee had addressed the issue of Trust actions taken to resolve the higher than national norms for risk-adjusted mortality during 2008-9 and concluded these actions were appropriate and were having the intended effect. Cardiac surgery mortality rates were now back below the national benchmarks. Results in the area of re-bleeding performance were not yet acceptable and the ARC would continue to monitor progress in resolving this.
Surgical Site Infection Rates. Rates in the Trust over the last year had often been higher than the national benchmark. The ARC concluded that Trust actions were appropriate and delivering results. However more time was needed to make a final conclusion.
Fire safety compliance. The ARC had looked at reasons why (a) they had recommended the declaration of compliance to the CQC with all core standards in November 2009 when it was subsequently found there was a compliance breach on a fire safety matter, and it was concluded that this involved a failure of process, steps to remedy which had now been taken, and (b) why the deficiencies had only been discovered in March this year. The ARC concluded there was no evidence that this was more than a local compliance failure and the executive's explanation for why the compliance failure was only unearthed in March this year was acceptable.

The ARC had also received a progress report on the Trust's review of how it recruits and monitors the performance of its most important clinicians and recommended that the Board supported this important work.

Finally, the ARC observed the latest evidence of performance on Patient Safety, Clinical Effectiveness, and Patient and Staff Experience – the fundamental three legs of evidence that the Trust's performance in its core role.

Mr Coleman confirmed the ARC would formally split into two committees in June, following approval from the Governors.

2010/40 DRAFT QUALITY ACCOUNTS 2009/10

Mr Lambert confirmed the draft quality accounts 2009/10 had been submitted to the Audit & Risk Committee yesterday. The draft quality accounts aimed to meet

all the requirements of the Health Act 2009 and Monitor had also issued guidance on their requirements for the Quality Reports section of the Annual Report for FTs. The time table for this is the 8th June for Monitor Annual Reports and 30th June for the quality accounts to be entered on NHS Choices website. Mr Lambert confirmed the second draft would be sent to stakeholders. Mr Coleman emphasised that this could be regarded as a useful marketing tool and a vehicle to channel interest towards the Trust; it was therefore important that the document should be a positive one.

2010/41 Q4 MONITOR SUBMISSIONS

(i) Financial Monitoring Commentary

Mr Lambert explained the Trust was required to submit the financial performance for Q4 2009-10 to Monitor to meet the requirements of their Compliance Framework. Mr Lambert reported the financial risk rating as at the end of March had reduced to 3; however, although this was disappointing, Mr Lambert felt there were no adverse implications in this for the Trust.

The Board approved the financial template and supporting narrative for submission to Monitor.

(ii) Governance Self Declaration

Mr Lambert reported that the Trust had declared insufficient assurance in respect of core standard C20a, Care Environments and Amenities, which related to compliance with the Firecode and Health Technical Memorandum. An action plan had been submitted to the CQC and the Trust was on track to complete delivery of this plan by 31st July 2010. The Board was requested to declare compliance will all targets, but due to insufficient assurance with care standard C20a, Declaration 2 should be made.

The Board agreed with this recommendation.

2010/42 ANY OTHER BUSINES

There was no other business.

2010/43 QUESTIONS FROM MEMBERS OF THE PUBLIC

There were no questions from members of the public.

2010/44 DATE OF NEXT MEETING

The date of the next meeting was changed from 2nd June 2010 to **1st June 2010.**

REF: TB Mins 28 Apr 10 RP NC2 (11.5.10)