A lifetime of specialist care

Royal Brompton & Harefield NHS
NHS Foundation Trust

Minutes of the Board of Directors meeting held on 28 January 2015 in the Board Room, Royal Brompton Hospital, commencing at 2 pm

Present:	Sir Robert Finch, Chairman	SRF
	Mr Neil Lerner, Deputy Chairman & Non-Executive Director	NL
	Mr Robert Bell, Chief Executive	BB
	Pr Timothy Evans, Medical Director & Deputy Chief Executive	TE
	Mr Robert Craig, Chief Operating Officer	RCr
	Mr Richard Paterson, Associate Chief Executive - Finance	RP
	Dr Caroline Shuldham, Director of Nursing & Clinical Governance	CS
	Mr Nicholas Hunt, Director of Service Development	NH
	Mr Richard Hunting, Non-Executive Director	RH
	Mrs Lesley-Anne Alexander, Non-Executive Director	LAA
	Mr Richard Jones, Non-Executive Director	RJ
	Mr Philip Dodd, Non-Executive Director	PD
	Pr Kim Fox, Professor of Clinical Cardiology	KF
	Mr Richard Connett, Director of Performance & Trust Secretary	RCo
By Invitation:	Ms Carol Johnson, Director of Human Resources	CJ
	Mr Piers McCleery, Director of Planning and Strategy	PM
	Ms Jo Thomas, Director of Communications & Public Affairs	JT
	Ms Joanna Smith, Chief Information Officer	JS
	Ms Joanna Axon, Director of Capital Projects and Development	JA
In Attendance:	Mr Anthony Lumley, Corporate Governance Manager (minutes)	AL
Apologies:	Mr Andrew Vallance-Owen, Non-Executive Director	AVO
	Ms Kate Owen, Non-Executive Director	KO

2015/01 DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING

SRF paid tribute to CS whose last meeting this was. She was the longest standing member of the Board and had been a wonderful servant to the Trust. CS was dearly loved by the nurses. SRF proposed a motion thanking her for her magnificent service. The Board members unanimously supported this.

2014/02 MINUTES OF THE PREVIOUS MEETING HELD ON 26 November 2014

The minutes were approved.

2015/03 REPORT FROM THE CHIEF EXECUTIVE

BB gave an oral report.

Director of Nursing at RB&HFT

BB said the post remained unfilled. There would now be a 2 phase process for recruitment: firstly an interim appointment for a few months; and

secondly a substantive search from March through to June/July 2015. The interim position would be advertised shortly and it would be recruited internally and externally. BB added that Jan McGuinness from Canada, who had previously applied for the post of Director of Nursing, had been appointed as Director of Patient Experience and Transformation. Ms McGuiness would be starting this role as soon as the visa process was concluded.

Chelsea & Westminster (C&W) Collaboration

BB reported that following the board-to-board meeting held in the autumn of 2014, C&W NHS FT and the Royal Brompton & Harefield NHS Foundation Trust (RB&HFT) had signed a Memorandum of Understanding (MoU). He and C&W's new Interim CEO would be meeting on 11 February 2015.

BB asked RCr to update the Board further on the collaboration. RCr said the working parties had continued to meet since the board-to-board and were now meeting monthly around a series of work streams. There had been good progress and clinical collaboration towards an objective of simpler and more streamlined pathways of care for children. He added that no significant capital investment was envisaged for the foreseeable future.

Chelsea Campus Redevelopment

BB said that following his notification to the Board at the last meeting of the planning application made by the Royal Marsden Hospital (RMH) in November 2014 for redevelopment of the Fulham Wing, the Trust had informed RMH that it felt that this was an inappropriate and hostile act and asked for the application to be withdrawn in the light of the proposed joint-site collaboration between the two organisations. BB said that he understood that the Royal Borough of Kensington and Chelsea (RBK&C) had deferred RMH's application pending the outcome of NHSE's report on service review findings which had been due to be published on 12 December 2014. He added that on 15 December he had met with Anne Rainsberry, NHSE Regional Director for London (AR), and the RMH. AR asked RMH why they had not signed the MoU (between the two Trusts and NHSE the ToR of which had been agreed in December 2014), and also why they had not withdrawn their planning application on Fulham Wing. RMH declined to sign. BB said as of 28 January 2015 NHSE had not produced its report despite NHSE having informed him that they would shortly be asking for the MoU to be formally agreed. He added that the Trust itself was ready and willing to sign it.

BB at this point asked if Board members had any questions on his report to date. There were none.

BB said he had written to Councillor Nicholas Paget-Brown, Leader of RBK&C, in December 2014 enquiring about the current position of the Royal Borough in respect of the SPD (Supplementary Planning Document) agreement. Recapping, BB said that in 2013 the Trust had spent £220k on the draft SPD which was consulted on late in that year. The Trust was

effectively 'unsighted' about the process, but no response to his letter had been received. However, BB said that he had received an email on 27 January 2015 from Jonathan Bore, Executive Director for Planning and Borough Development RBK&C, in which he apologised for the delay in contacting the Trust and in which he said he would be asking for a meeting with RMH about NHSE's review. BB said he estimated that the review would be completed in the Spring but a second SPD could not be expected until at least May 2015 after the General Election. BB said he was baffled by the behaviour of RMH. In summary, the Trust urgently wanted RBK&C and NHSE to expedite what they were proposing to do. Naturally the Trust's patients and staff were anxious and wanted to see resolution. BB added that RB&HFT did not currently have on offer one single building on the Royal Brompton Hospital (RBH) site for sale to anyone, nor had there previously been one for sale. The Trust would not be in a position to sell unless it could be assured that the full capital values of its properties could be realised if they were sold.

Referring to the comment by BB on staff anxiety RJ asked if he felt this was been managed well and if he could elaborate on their reaction to RMH's action? BB said he was aware that one staff member had written directly to RMH's Chief Executive. The Trust's staff were angry about what they saw as an invasive attack, and about the process which was seen as threatening to them and undermining their capacity. The Fulham Wing would continue to deliver its services (mainly respiratory) to vulnerable patients, and the outpatients unit would also continue until a replacement facility suitable for the needs of all the patients in that building was found.

SRF said he had been asked by the Chairman of RMH if he felt that RB&HFT had a duty of care to RMH. He had replied in writing that the Trust believed its duty of care was solely to its own organisation and its members and patients.

2015/04 <u>CLINICAL QUALITY REPORT FOR MONTH 9: DECEMBER 2014</u>

Introducing the report RCo said the highlights were.

Monitor Risk Assessment Framework

- *Clostridium difficile*: 7 further cases were reviewed by NHSE on 15 January 2015 and none of these were found to involve any lapse of care. 1 case in M9 had been reported to Public Health England. 8 further cases at Harefield Hospital (HH) were awaiting review by NHSE in February 2015. The target was therefore met for Q3.
- Cancer 62 day urgent GP referral to 1st Treatment target M9: this was 78%. Monitor's Risk Assessment Framework for 2014/15 makes provision for breaches to be reallocated to referring Trusts when evidenced by an exchange of letters between Chief Executives and 8 such letters have been sent during Q3. RCo reported that where previously Trusts had agreed repatriations there had been a change in culture and letters received in reply made reference to advice from the intensive support team. This was being quoted as all breaches should be shared rather than reallocated through local agreement. 5

of the 8 breach allocation requests had been declined and RCo reported that 2 more (both West Hertfordshire NHS Trust) had been declined this morning (28 January 2015). It was unlikely the remaining one, for Luton and Dunstable Hospital, would be agreed. RCo said that with performance at 78% and the operational standard at 85% the target was not met for Q3. RCo went on to say that, although it was early days, an alternative method of measurement had been proposed by North West London Collaboration of Clinical Commissioning Groups. The proposed change to measurement would involve setting a standard based upon the date of referral to the tertiary centre. The proposal was that for patients ready for surgery the target would be 20 calendar days post referral and for those needing completion of diagnostics the standard would be set at 31 calendar days. The proposal would need to endorsed by NHSE for performance management under the NHS Contract and by Monitor for the Risk Assessment Framework. Negotiations are underway with the aim of securing agreement for the introduction of this method for 2015/16. RJ commented that this measurement appeared to be much fairer. TE concurred and said that in the meantime clinical service had improved, and there had been clinical engagement with the referring organisations. He thanked RCr who had given considerable resources in terms of staff time with the Trust's Cancer Manager and Consultant Thoracic Surgeon attending a meeting at Milton Keynes NHS Foundation Trust, and offering Watford General Hospital an enhanced clinical service. It was vital to bring down the rate of delays and impediments to referrals. 31 days would be helpful and was exactly appropriate. RJ asked if the Trust had fed back, in its communications with NHSE and Monitor, that currently no referring Trusts were currently accepting reallocations? RCo said this point had been conveyed.

- Care Quality Commission (CQC): in the first week of January 2015 the CQC had published the list of Trusts to be inspected in April-June 2015 and the Royal Brompton & Harefield NHS Foundation Trust (RB&HFT) was not included. The next list, of Trusts to be inspected in the period July to September, was due in early April 2015. In the meantime preparations were underway for a visit, overseen by the Trust's CQC Steering Group.

NHS Standard Contract:

- 18 Weeks Referral to Treatment Times (RTT) Incomplete: the 92% target had not been met at the 'other' national specialty level (91.09%).
- 18 Weeks Referral to Treatment Times (RTT) Non-Admitted: the target had not been met at the 'other' national specialty level (92.73%) however, the target percentage in the report (90%) was incorrect and should have read as 95%.

Key Performance Indicators

- Incidents: there had been 1 Serious Incident in M9. The report included a summary of the incident as requested by LAA. LAA said this was very satisfactory and commented that, throughout the report, details of the outcome for patients had been included which was very welcome. NL noted that the incident had not yet been reviewed by the Risk and Safety Committee.
- Friends and Family Test Results (FFT): the Net Promoter Score was 97%. RCo reported that the outstanding comment cards referred to in the report had now been processed and the response rate had improved from 19% to 23%.

The Board noted the report.

2015/05 <u>FINANCIAL PERFORMANCE REPORT FOR MONTH 09: DECEMBER 2014</u>

RP reported the following performance in M07:

- **I&E account**: As a result of the low number of working days in December 2015 the Trust had planned for a deficit £0.7m. The actual position was a deficit of £2.9m. While it was known that £0.7m of Project Diamond funding would not reported this left £1.5m to be explained. The Trust had underperformed on every metric which was unusual. All 3 divisions failed to reach plan at contribution level (the first time in his recollection). Year to date (YTD), the plan had been breakeven but the cumulative deficit for the first 9 months was £5m. Consequently, the Continuity of Service (CoSRR) rating had fallen from 4 to 3. The shortfall comprised: £2m Project Diamond therefore out with control; £2m capital donations mainly from Charity, which could be expected to be made up in time. The balance was therefore a £1.2m shortfall against performance for the whole year. RP cautioned reading too much into one month. Taking a three month view usually evened things up. The January 2015 (M10) result was awaited.

- **Balance Sheet**: There had been a deterioration in the Trust's cash position since M8 with a £1m shortfall on cash. The capital programme was behind plan although this was good for cash. Private Patient (PP) debtors were still stubbornly high in spite of continuing efforts. NHS debtors were also very high. Normally the Trust was paid a couple of months after the month in question for over-performance. NHSE was holding back payments for M05 to M07, using this as leverage to convince the Trust to do a deal for the whole year. Their opening offer was for 2014/15 over-performance to be paid at a marginal rate of 50%. This was out with the contract. Currently NHSE owed the Trust £5m (excluding Project Diamond debtor). NHSE had just advised that on 2 February 2015 they will pay for M05, but not M06 orM07 until a deal was agreed. A new red risk around liquidity had been identified and included in the report.

SRF asked if NHSE were contractually obliged to pay? NH said national rules were that the commissioner should pay for all work undertaken. The Trust had written to NHSE, citing a paragraph in the contract, stating that if

it did not pay the Trust would add interest. The Trust's position was no year-end deal – cash now. PD asked if this was happening across the piece? NH confirmed that it was. He added that the Trust's over-performance was partly caused by patients in Reading being shifted to the Royal Brompton (RBH). South Central CCGs had agreed to this but without funding.

RJ asked if the Trust was not drawing down on the loan earlier than anticipated was it therefore paying interest? RP said that was not the case. There was no extra debt although the reduction in cash had a knock on impact on the amount the Trust was charged for PDC dividend. KF said the first cases cost the most and over-performance costs less. NH said the over-performance was partly attributable to devices.

BB added that the Trust was being asked to use its resources to underwrite the costs, for example through efficiency savings (FSPs) or PP. KF commented that he noted this was happening elsewhere. For example Imperial was being asked to underwrite part of its grant from the MRC.

RP said that in late November 2015 the Trust was told Project Diamond funding for 2014/15 would be halved and was advised to bill £4.3m to NHSE. This had been done but to date the Trust had still not been paid despite chasers.

The Board noted the report.

2015/06 <u>Q3 MONITOR DECLARATIONS 2014/15: (i) GOVERNANCE DECLARATION (ii) CONTINUITY OF SERVICE (CoSRR) RATING</u>

RP said that although the Trust would report a CoSRR (i.e. financial rating) of 3 for Q3 of 2014/15 he could not recommend that the Board make the Q3 quarterly declaration to Monitor that a minimum CoSRR risk rating of at least 3 would be maintained by the Trust for the next twelve months. Commissioning and tariff 2015/16 remained under discussion and in flux. A meeting to be held shortly between Monitor and Simon Stevens, Chief Executive of NHSE, could also have an impact. RP added that in this vacuum the Trust did not have the information to make an informed judgement about its CoSRR rating.

NL confirmed that the Finance Committee had discussed the issue at length and all supported the decision. PD asked if the reply was binary? RP said it was but the Trust was encouraged to provide information in the event that the Board felt unable to provide a positive confirmation.

The Board agreed that the following governance declaration was made:

For Governance, The Board agreed that the governance statement that plans were in place to ensure on-going compliance with all existing targets should be declared 'not confirmed' because the 62 day cancer target had not been met for Q3.

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 page 22, Diagram 6) which have not already been reported.

Consolidated subsidiaries: Number of subsidiaries included in the finances of this return = 0 (zero).

Action: Upload declarations to the MARS portal before 4pm Friday 30 January 2015 to ensure compliance with Monitor's reporting requirements.

2015/07 STANDING FINANCIAL INSTRUCTIONS (SFIs) UPDATE

RP said that in accordance with the Trust's Constitution the SFIs should be reviewed annually. There were a number of minor changes which were highlighted in the report. NL confirmed these amendments were supported by the Finance Committee.

The Board approved the changes as set out in the report.

2015/08 NOTIFICATION OF EDM (ELECTRONIC DOCUMENT MANAGEMENT) CONTRACT

RP reported that this was brought to the attention of the Board as under the SFIs any contract with a value over £250,000 had to be approved by the Chief Executive and then notified to the Board. As BB had been out of the country approval had been signed off by RP who was authorised to do this under delegated authority. The contract was for provision of an EDM system over 5 years and it included capital of £2m. The project and award of the contract had the full support of JS, the Trust's Chief Information Officer.

The Board noted the contract.

2015/09 FT CONSTITUTION: UPDATE TO MODEL ELECTION RULES

AL said the purpose of the paper was to update the Board on changes to the Trust's Constitution's model election rules and seek approval for the changes. New rules had recently come into effect, sponsored by the FTN (now NHS Providers) and then endorsed by the DH and Monitor, the aim of which was to facilitate the phasing out of paper based election systems to be replaced by e-voting methods. The Trust's Constitution provided at paragraph 14.2 that 'The Model Election Rules as published from time to time by the DH form part of this constitution.' Monitor had stated that this wording should now be interpreted as referring to the new election rules sponsored by NHS Providers. Accordingly no changes to the body of the Constitution were required. However, the existing annex 5 (containing the old Model Election Rules), should be replaced by the new model rules. The Board and then the Council of Governors were being asked to approve this change as the Trust had been advised that a safety-first approach might be prudent. AL added that these changes would enable the use of electronic voting in the Spring 2015 elections when half of the current Governor posts

would be elected. The main benefit of electronic voting would be a saving in cost - the more members are enabled to vote electronically the less is paid on mailing and postage for nomination letters and voting forms (which is the usual method of voting).

The Board approved the change to annex 5 of the Trust's Constitution.

2015/10 AOB

NH reported that the Royal Brompton & Harefield Hospitals Charity had been awarded a grant of £33,000 by the Heritage Lottery Fund to support a social history project that culminates in an exhibition at the hospital in autumn 2015 and which will form part of the HH centenary celebrations. SRF asked that the Board's congratulations be passed on to Ms Gill Raikes, Director of the Charity.

2015/11 QUESTIONS FROM MEMBERS OF THE PUBLIC

Ken Appel, on behalf of the Council of Governors, said 'thank you' to CS for 'champion service' and her dedication to the welfare of the patients. He also personally thanked her for her help. He then asked the following questions:

- Noting that the Trust now appeared to have to go 'cap-in-hand' to the commissioners following the withdrawal of Project Diamond funding for work the Trust had simply been doing on behalf of its patients, he asked if the Trust had made representations to those setting the tariff?

SRF thanked KA for his support. He confirmed that a number of letters had been sent.

- He then asked if the issue with RMH over their planning application had a detrimental impact on the clinical relationship between the two hospitals?

TE said there was still an excellent clinical relationship. Some services were shared and he did not see that changing. He added that he felt that a joint venture may fail simply because of lack of money. But in fact both Trusts were as likely to be as mutually supportive as they had always been if brought together by the same travails (i.e. over issues affecting all specialist Trusts).

- On breaches, noting that the West Hertfordshire NHS Trust had had A&E closures, KA asked what response had the Trust received to its requests sent to their CE for reallocation (noting also that there had been a change of personnel in this post)?

TE admitted this was a difficult situation which had been compounded by a change of medical directors as well. However, the Trust was connecting with the West Herts team through the respiratory physicians. TE said that substantial managerial resources had been made available by RB&HFT And that John Pearcey and Niall McGonigle had visited Milton Keynes NHS FT and the Trust was be actively looking at the feasibility of undertaking the

diagnostics on their behalf, which could lead to an improvement in managing the whole cancer pathway.

Richard Burgess asked whether the Trust was aware of Transport for London's (TfL) Crossrail 2 plans safeguarding a corridor of land for tunnelling over a vast area to the south of the RBH and of the issuing of a Compulsory Purchase Order (CPO) for the land occupied by the Chelsea Farmer's Market which could lead to 12-15 years of blight and construction?

SRF said the Trust was aware but BB clarified that while the Trust was aware of the consultation over safeguarding it had no knowledge of any CPOs. In reality the Trust would be pleased if there were CPOs. If a purchaser wished to acquire Trust properties it would be willing to consider their offers at fair market values. He added that the Trust would be responding to the Crossrail 2 consultation in the week commencing 2 February 2015. NL said it was correct that CPOs would be at competitive rates.

Commenting that CPO values were often not that generous and that he and his fellow King's Road Association members were looking on in horror at the plans which would include substantial commercial buildings, Mr Burgess asked if the hospital was in effect saying it supported Crossrail 2's proposals? In reply BB repeated that the Trust would be responding to the Crossrail 2 consultation .

RJ said that the Trust would need to look at the detail of the construction practices and, through the consultation process, would seek to minimise the impact on the hospital. Mr Burgess confirmed that the King's Road Association would be opposing Crossrail 2.

NEXT MEETING Wednesday 1st April 2015 at 10.30 am in the Concert Hall, Harefield Hospital