A lifetime of specialist care

Royal Brompton & Harefield NHS
NHS Foundation Trust

Minutes of the Board of Directors meeting held on 29 July 2015 in the board room, Royal Brompton Hospital, commencing at 2pm

Present:	Sir Robert Finch, chairman	SRF
	Mr Neil Lerner, deputy chairman and non-executive director	NL
	Mr Robert Bell, chief executive	BB
	Pr Timothy Evans, medical director and deputy chief executive	TE
	Mr Richard Paterson, associate chief executive - finance	RP
	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
	Ms Kate Owen, non-executive director	KO
	Mrs Lesley-Anne Alexander, non-executive director	LAA
	Mr Richard Jones, non-executive director	RJ
	Mr Richard Connett, director of performance and Trust secretary	RCo
By Invitation:	Ms Jo Thomas, director of communications and public affairs	JT
	Ms Jan McGuinness, director of patient experience and transformation	JM
In Attendance:	Mr Anthony Lumley, corporate governance manager (minutes)	AL
	Ms Gill Raikes, CE Royal Brompton & Harefield Hospitals Charity	GR
Apologies:	Mr Robert Craig, chief operating officer	RCr
	Pr Kim Fox, professor of clinical cardiology	KF
	Mr Philip Dodd, non-executive director	PD

2015/53 DECLARATIONS OF INTEREST IN MATTERS COMING BEFORE THIS MEETING

None.

SRF welcomed Luc Bardin (LB) to his first Board meeting since his appointment as a Non-Executive Director.

Asked by SRF to report briefly on part of the business of the Nominations and Remuneration Committee of the Trust Board that had met earlier in the day KO said she was very pleased to report that the committee had agreed to recommend that the Board ratify the appointment of Joy Godden (JG) as Director of Nursing and Clinical Governance. KO congratulated JG. SRF said he was equally delighted to hear of this appointment and hoped that both she and LB would enjoy their time with the Trust.

2015/54 MINUTES OF THE PREVIOUS MEETING HELD ON 20 MAY 2015

The minutes were approved subject to the following amendments:

Page 8, item 2015/48, first para.:delete second sentence.

Page 8, item 2015/48, second para., first sentence: insert 'the Annual Report' before 'line by line'.

Matters Arising

Page 2, item 2015/42, (Report from Chief Executive – Congenital Heart Disease Review)

BB said revised standards had been approved by the NHS England (NHSE) Board on 23 July 2015. TE said the expert group had met since and had realised that firstly the standards were aspirational, and secondly only two Trusts currently met them. It had been agreed to divide the country into Networks - London, South West, Midlands and the North. Bristol was included in the Midlands. It was also agreed that the Networks would convene separately to review compliance with standards.

2015/55 RATIFICATION OF APPOINTMENTS TO THE BOARD COMMITTEES

SRF said the Board was being asked to approve the appointments as set out in the report. RCo highlighted LB's inclusion in the membership of the Audit Committee Finance Committees and that the opportunity had been taken to formally include TE and RCr in the membership of the Redevelopment Advisory Steering Group.

The changes were ratified by the Trust Board.

2015/56 REPORT FROM THE CHIEF EXECUTIVE

BB gave an oral report. A Board Seminar had been held earlier in the day to look at a range of issues and the Council of Governors AGM had been held on 22 July 2015. On the Dovehouse Street development, the Redevelopment Advisory Steering Group had met last week and another meeting was due to take place in September. The Executive Steering Group was meeting on 30 July 2015. NHSE's timeline was for the draft Strategic Outline Case to be ready by November 2015.

NL asked if Monitor had decided to refer the 2015/16 tariff issue to the Competitions and Markets Authority (CMA). RP said that at a meeting of Foundation Trust (FT) Directors of Finance yesterday it had been reported that the CMA were looking at the issue but this could take six months. If and when they reached a conclusion CMA's decision would not be retroactive. By then the focus would be on consultation for the 2016/17 tariff. NHSE's possible introduction of HRG 4+ to replace Project Diamond might be part of the answer but the situation was lacking in clarity. SRF said it appeared that the fog of last year was being repeated. BB said it was clear this year that funding out of base had been replaced by the block grant and he did not think the next year would be any different. Project Diamond funding was dead. He was not anticipating specialist top up funding to come back and he did not know about a new tariff to replace Project Diamond. The Trust had to expect that the block grant would continue. [*Secretarial note: It now*

appears that Monitor may in fact have decided to reconsult on the 2015/16 tariff: unfortunately, there is no reference to this matter in Monitor Board minutes so it is advisable to treat the information with circumspection until formally confirmed one way or the other.]

2015/57 CLINICAL QUALITY REPORT FOR MONTH 03: JUNE 2015

Introducing the report RCo (for the end of Q1) said the highlights were:

Monitor Risk Assessment Framework:

- 18 Weeks Referral to Treatment (RTT) Incomplete: changes to the report had been incorporated following the abolition of the admitted and non-admitted 18w RTT metrics. Simon Stevens, CEO of NHSE had accepted the recommendations put to him earlier in the summer of 2015 by Bruce Keogh, National Medical Director of NHSE. Monitor, the Trust Development Authority (TDA) and NHSE had written to provider CEOs to inform them that the changes were effective from 24 June 2015, although changes to the legal framework were not expected to be completed until October 2015. The letter clarified that the Trust were still required to report numbers for the other two indicators but these would not be assessed. The Incomplete Pathway indicator showing those still waiting for treatment to commence would be the sole guarantor of the 18 week wait pledge set out in the NHS Constitution. Performance for M3 against this metric was 91.07% against the target of 92%. Failure in any month meant a failure against target for the quarter so for Q1 the target was not met.

Noting that the joint letter from Monitor, NHSE and the TDA said there would be no levying of financial sanctions RJ asked if this would mean an unexpected net positive benefit to the Trust financially from what had been assumed in our budgets. NH said that fines could still be imposed if the incomplete pathway was failed. RP confirmed that provisions were in place to cover what would be quite modest fines. RJ asked if the Exec agreed with the letter's conclusion that this change would benefit providers. RCo confirmed it was a welcome simplification of reporting.

- Cancer 62-day wait for cancer first treatment: performance for Q1 was not met. There were 18 cases where reallocation of breaches had being sought and letters had gone out to the Chief Executives of the referring Trusts. Only one had been agreed (East and North Hertfordshire NHS Trust). Eight of the remaining cases were being followed up, and if any were agreed the position might improve slightly, but this would not be enough to meet the target. RCo added that Colchester had just withdrawn agreement to a breach reallocation so the performance was now down from 49.06% to 47.17%. It was hoped that the review of breach re-allocation policy, due at the end of August 2015 would propose a new national policy that would cover all Trusts and would stipulate the day on the pathway after which breaches would be reallocated to referring trusts.

RJ asked if the hoped for system came into being would the Trust move back into compliance. RCo said that if the breaches from all of the cases where patients were referred after day 42 were reallocated to the referring hospital, the indicator would be met.

NL asked how performance against the cancer target had varied over the last three months. RCo said that it was noticeable that more breach reallocation requests had been declined and that advice from the Intensive Support Team (IST) to only agree breach shares had been quoted in the reply letters. RCo went on to explain that this highlighted the difference in approach between NHS England and Monitor. NH added that this created an impression that there was an unresolved (dispute) between the national FT regulator and the national commissioner. RCo said that he hoped that the review currently underway might help to resolve this. NL said that it would be helpful to have some analysis to demonstrate how our performance is varying over time. AVO added that the Risk and Safety Committee had been keeping the issues under review.

- Cancelled Operations: a review by KPMG (the Trust's Internal Auditors) had led to changes in reporting. This would now include cancelled catheter and bronchoscopy suite procedures as well as operations carried out in operating theatres. Therefore from this month they had both been included in the report. RCo noted that RCr had provided a briefing by e mail to non-executive directors following the discussion at the last meeting of the Trust Board and that RCr's intention was to establish a reliable baseline of current performance and what an achievable improvement might be.

Noting that the report included more 'reds' than she was used to seeing LAA asked what was the tipping point for Board members to be seriously concerned. RCo said that he could state that with regard to 62 day cancer, the Trust was doing what it could; with 18w RTT RCr had engaged the Elective Care Intensive Support Team to undertake a focused piece of work from July to September 2015, as previously reported to the Board. Addressing LAA's question BB said the Trust did not think these were genuine red lines. The Trust's tipping point was 'are they clinically causing harm?' and they were not. He added that if international standards were adopted then the focus would shift to the behaviour of the referring hospitals. The Trust was concerned to be doing all it could with these patients who were coming to RB&HFT way beyond a date that they should have been referred on. LAA asked where did she get her confidence from. BB said it came from our, that is the Executives', answers. LAA acknowledged that the situation was being well managed and the outcomes for patients were generally fine but said the written report did not reflect that reality. She suggested something was required at the beginning of the report and some sort of statement from management to overlay the reported figures. BB said documentation that showed the Trust did not agree with the referring Trusts actions was held on the record. LAA said it was not necessary for the Board to look at these files and it was more

important to have a statement that would help with providing comfort. There followed a discussion of how the report could be improved and it was agreed that RCo would look into how this could be done.

AVO said that the minute of this discussion today would also be a formal record of assurance.

LAA asked about the 2015/16 cumulative monthly trajectory for *Clostridium difficile*. RCo explained that Monitor and NHS England used different targets. He said that 12 cases had been reported to Public Health England for 2015/16 and all of these would now be subject to review by NHS England in order to determine whether there had been any lapse of care.

The Board noted the report.

Action: RCo to include an analysis of how performance has varied over time within the Clinical Quality Report for the next meeting of the Trust Board.

Action: Review the information contained in the covering sheet of the Clinical Quality Report to strengthen the assurance provided for Board members (RCo)

2015/58 FINANCIAL PERFORMANCE REPORT FOR MONTH 03: JUNE 2015

RP reported the following performance for M 03:

- I&E account: outcome was a deficit of £1.3m against plan of £0.9m. This result was flattered by a provision release of £0.5m without which the position would have been £0.9m worse than plan. Year-to-date deficit was £5.2m against plan of £5.3m. The challenge would be meeting the target of £10m deficit when half had already been recorded in the first quarter. RP said he had been asked at the Finance Committee to explain the NHS block adjustment. NHSE income was disclosed first on a cost and volume basis essentially determined by the number of cases for each procedure at its specific tariff. The Trust recognised approximately 1/12th of the block annual income from NHSE each month: the difference between these two results was the 'block adjustment' to bring income back to the recognised value for the month . If performance (i.e. activity) was above plan that was a 'bad thing', while below was 'good' because under the block contract additional activity incurred additional cost but no more income.
- Two new appendices in the report on FSP (Financial Savings Plan) and Staffing Spend on Permanent and Temporary. The 6% cost of agency staff was equivalent to about 4% in staff numbers. With JG he had recently met with a company who were offering solutions to cut agency cost with two pilots, one for agency doctors and one for nurses, which JG and he were now considering.
- Balance Sheet: Project Diamond money for last year had been collected as had most of the monies owed by NHSE. The Trust had

signed a second ITFF loan agreement for a further £20m with terms of 2% per annum fixed for 15 years with no security required. The Trust now had two ITFF loans which would finance much of the capital programme for this year and next. Year to date capital expenditure was close to plan.

- Continuity of Service (CoS): RP could not recommend that the Board make the Q1 quarterly declaration to Monitor that a minimum CoS risk rating of at least 3 would be maintained by the Trust for the next twelve months. The probability was this would be a 2. The proposed new algorithm for financial risk ratings to be introduced from Q2 would make a 3 more difficult. He added that some 80% of FTs were currently reporting 2 and in some cases 1.

AVO asked if this month's figures, which were slightly worse than plan, meant a trend could be expected. RP said Monitor had visited all forty odd FTs which had planned for a 2015/16 deficit of at least £10m and spent two days at the Trust reviewing our plan, and looking at upsides/downsides. SRF, BB, RCr and he had then been summoned to a meeting at Monitor's offices. Subsequently, Monitor had said that the Trust's figures might be £2-3m over-optimistic over the year. The Trust's current view was that the plan was challenging but achievable.

Noting that FSPs were £0.5m adverse year-to-date NL said the position may get more challenging. RP said there were other FSPs to bring forward if the existing FSPs could not be delivered. There were also contingencies in the budget. RP added that he was aware that certain other Trusts were 100% off plan and heading towards double their planned deficits. RB&HFT's reception from Monitor had been respectful. BB said the Secretary of State's recent comment that every £1 in deficit is £1 not going on patient care insinuated that Trusts were reneging on their duty to treat patients. RB&HFT's deficit was a result of legitimately incurred costs. The duty of this Trust was to treat patients. Simply put the system was underfunded.

The Board noted the report.

2015/59 <u>Q1 MONITOR DECLARATIONS 2015/16: (i) GOVERNANCE DECLARATION (ii) CONTINUITY OF SERVICE (CoS) RATING</u>

RCo presented Paper D. The Board agreed that the following governance statements are made:

For Finance, the Board agreed that the governance statement that the trust will continue to maintain a Continuity of Service risk rating of at least 3 over the next 12 months should be declared 'not confirmed'.

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 and the 18 week RTT target had not been met for Q1.

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 31st July 2015 to ensure compliance with Monitors' reporting requirements.

2015/60 TRUST RISK REPORT

JG said that the Risk Review Group had met on 2 July 2015. The Top Trust Risks section should have been as at 1 July 2015 not February 2015. One of the Top Risks was still a red risk – Estates: out-of-date areas unsuitable for patients / staff.

NL said there had been a great improvement in the presentation of this report. SRF asked TE if the Estates risk was a principal risk. TE confirmed that it was and it remained relevant.

2015/61 RECOMMENDATIONS OF ADVISORY APPOINTMENTS COMMITTEE

The Board were presented with four ratification forms for the appointment of consultant medical staff.

The first related to the appointment of a consultant fetal and paediatric cardiologist and had been chaired by AVO who presented the recommendation for appointment. AVO said it was identified that some support was required and this was now in place. NL asked if this was a niche specialty. TE said paediatric cardiology generally was. There had been recruitment difficulties before because of Safe and Sustainable and it had continued to cast a shadow. The Trust had the biggest fetal cardiology centre in the UK.

The Trust Board ratified the appointment of Dr Margarita Bartsota as a consultant fetal and paediatric cardiologist.

The second form related to the appointment of a consultant in critical care medicine and acute medicine and had been chaired by RJ who presented the recommendation for appointment. RJ said there had been two candidates and the appointment was a joint one with Chelsea and Westminster NHS Foundation Trust (C&W). SRF asked if the appointment represented the first fruits of the relationship with C&W. TE said it was not the first but in terms of adults it was.

The Trust Board ratified the appointment of Dr Daniel Melley as a consultant in critical care medicine an acute medicine.

The third form related to the appointment of a consultant in cardiovascular magnetic resonance and cardiomyopathy. KO presented the recommendation.

The Trust Board ratified the appointment of Dr John Baksi as a consultant in cardiovascular magnetic resonance and cardiomyopathy.

The fourth related to the appointment of a consultant paediatric cardiologist / electrophysiology and had been chaired by KF. In KF's absence TE presented the recommendation for appointment and said this was a highly niche area and the trust was expanding the service. NL asked if KF fitted the definition of lay chair. BB said he did but it would be preferable in the future for the chair to be described as non-executive chair. It was agreed that RCo would ask Carol Johnson, Human Resources Director to make the adjustment.

The Trust Board ratified the appointment of Dr Shreesha Maiya as a consultant paediatric cardiologist / electrophysiology.

Action: Future consultant ratification forms to use the term 'non-executive chair' rather than 'lay chair'(RCo)

2015/62 AUDIT COMMITTEE (AC)

(i) REPORT (DRAFT MINUTES) FROM MEETING HELD ON 14 JULY 2015

NL thanked Tim Callaghan, deputy director of finance for producing the notes. The draft minutes were noted. SRF said Governors had re-appointed Deloitte's as the Trust's External Auditors at the Council of Governors' AGM on 22 July 2015.

(ii) MINUTES FROM THE MEETING HELD ON 19 MAY 2015

The minutes were noted.

2015/63 RISK & SAFETY COMMITTEE (RSC)

(i) REPORT (DRAFT MINUTES) FROM MEETING HELD 14 JULY 2015

AVO thanked Anne Middleton, Interim Head of Quality and Safety for the minutes. The Committee had: received a presentation by the SPRinT team who had won the *HSJ* National Patient Safety Congress Education and Training Award; received the modern matron's report; and an excellent report from Dr Anne Hall, consultant microbiologist and infection control doctor on the infection control Annual Report; and looked at the Lampard Report following the Savile enquiry. Concern had been expressed about Never Events (NEs). JG had instigated a thorough review and had an action plan in place. TE echoed the concerns about NEs. The Cancer Review would report in September 2015. AVO said there had been an update on a weekend mortality outlier alert but the committee heard that the CQC were happy with the investigation that the Trust had carried out. LB asked if the Trust benchmarked against best practice. AVO said there was comparative

data for a number of metrics. TE said the most useful comparisons were with Papworth Hospital and Liverpool Heart and Chest Hospital for transplant, extra-corporeal membrane oxygenation (ECMO) and pulmonary hypertension services.

(i) MINUTES FROM THE MEETING HELD ON 28 APRIL 2015
The minutes were noted.

2015/64 NOMINATION & REMUNERATION COMMITTEE OF THE TRUST BOARD (VSM)

KO said the committee had discussed the issue of Very Senior Managers (VSM) pay following the letter from the Secretary of State for Health to all Trust Chairmen asking them to account for senior managers who were paid more than the Prime Minister's salary of £142,000. The committee had also taken the opportunity to review the Terms of Reference and agreed that it would look at succession planning when the committee met again in the autumn of 2015. SRF said the letter about VSM was a shot across the bows and that one Trust had simply referred the Secretary of State to their annual reports in response. RB&HFT had sent an extensive response, to which there had been no reply. It was noted that Monitor had subsequently stated that compliance with the requirement to seek the views of ministers when making new appointments of executive directors, where the proposed salary was more than £142k, was voluntary unless the foundation trust was in receipt of distressed finance.

SRF said Ray Puddifoot (RPu), Appointed Governor for the London Borough of Hillingdon had expressed a wish for links to be established between the Nominations and Remunerations Committee of the Council of Governors and the Nominations and Remunerations Committee of the Trust Board. To this end SRF said he would facilitate a dialogue between the Chairmen of the two committees.

2015/65 QUESTIONS FROM MEMBERS OF THE PUBLIC
None.

NEXT MEETING Wednesday 30 September 2015 at 10:30 am in the Concert Hall, Harefield Hospital