

BOARD OF DIRECTORS

Minutes of the Meeting of 28 February 2008
Board Room, Trust HQ, QEMC

Present: Sir Albert Bore, (Chairman)
Ms Julie Moore, (Chief Executive)
Professor David Bailey, Non-Executive Director (“DB”)
Mr Stewart Dobson, Non-Executive Director (“SD”)
Mrs Kay Fawcett, Chief Nurse (“CN”)
Mr Tim Jones, Chief Operating Officer (“COO”)
Mr Tony Huq Non-Executive Director (“TH”)
Mr David Ritchie, Non-Executive Director (“DR”)
Ms Clare Robinson, Non-Executive Director (“CR”)
Dr David Rosser, Medical Director (“MD”)
Rt Revd Mark Santer, Vice Chair (“MSa”)
Mr Mike Sexton, Director of Finance (“FD”)
Mrs Caroline Wigley, Director of Organisation Development (“DOD”)

In Attendance: Ms Fiona Alexander, Director of Communications (“DComs”)
Mr David Burbridge, Director of Corporate Affairs (“DCA”)
Ms Morag Jackson, New Hospital Project Director (“NHPD”)
Mr Mike Sharon, Director of Planning and Performance (“DPP”)

D08/25 Welcome and Apologies for Absence

The Chairman welcomed everyone present to the meeting. Apologies were received from Prof Michael Sheppard.

The meeting noted with sadness the recent passing of Sir Dick Knowles, a longstanding supporter of the Trust and a previous Vice Chairman of the Board of Governors. His contribution to the Trust was acknowledged.

D08/26 Quorum

The Chairman noted that:

- a) a quorum of the Board was present and
- b) the Directors had been given formal written notice of this meeting in accordance with the Trust’s Standing Orders.

D08/27 Minutes of the previous meeting

The minutes of the previous meeting were accepted as a true record as amended and initialled by the Chairman.

D08/28 Matters Arising

D08/09 – Update on Xchanging Partnership. The Director of Organisation Development reported that the Director of Finance had met the Chief Executive and Finance Director of University Hospital North Staffordshire to talk about the payroll contract. UHNS have made it clear that they wish to terminate the contract partly because they have been put under pressure by the Unions whose co-operation they require for other matters concerning their PFI. The FD reached agreement with UHNS to release a joint statement later today, stating that both parties had agreed to end the partnership and to co-operate to transfer the payroll service to UHNS's new provider which was their local PCT. Partly because the new provider is not a serious competitor to the UHB payroll service, it was considered that it was not within the Trust's interest to resist UHNS's intentions particularly given that, despite the now normal error rate, UHNS is still taking the stance that any errors are unacceptable.

The Chief Executive reported that she was due to meet David Rich-Jones from Xchanging next week. Following that meeting the Board were due to consider the future direction for the partnership. It was noted that the termination of the UHNS contract could affect the viability of the Stoke Office and this was something that would have to be reviewed in due course. The Board discussed other customer issues such as the Royal Marsden and Birmingham contracts.

The Chairman said that it was clear that the termination of this contract and two others had implications for the long term relationship and it was agreed that the Investment Committee would review the Xchanging investment at some point in the near future, in order to identify lessons learned and the basis on which this investment should be continued with.

D08/29 Actions List

The Actions List was reviewed and updated.

ACTION: DCA

D08/30 Chairman's Report

The Chairman reported that the Board Seminars arranged for February/March/April have now been changed. The February Seminar had been cancelled as insufficient progress had been made in relation to the Retained Estates issues to discuss that matter properly. Accordingly, the March Seminar date of 11 March had now been allocated to this subject with the review of strategy being postponed until the April Seminar date.

D08/31 Emerging Issues Review

The Board discussed the following emerging issues:

1. Defence Committee Report – it was agreed that this was a very positive report for the Trust although there was some

disappointment that the press had not picked up the positive messages in the report with as much enthusiasm as they had shown previously in covering adverse (and often incorrect) stories in connection with the RCDM. Particular dismay was expressed in relation to a story run by the Mail on Sunday, after they had received the embargoed report, claiming that the report was expected to state that care of military patients at Selly Oak was sub-standard with soldiers sharing wards with “Muslim patients who chanted the Qur’an at night”, leading to flashbacks of their experiences in Afghanistan or Iraq, another unfounded story and in complete contradiction of the actual contents of the Select Committee Report. The Chief Executive confirmed that she had written to the Editor of the newspaper and made a complaint to the Press Complaints Commission.

2. Letter from Monitor dated 20 February 2008 concerning MRSA rates – Monitor had written personally to the Chief Executive asking her to confirm whether the Trust was doing all it could do in order to reduce its MRSA rates. The Board noted that seven trusts have been required to make a presentation to Monitor concerning this issue although UHB was not one of such Trusts as they had achieved a reduction in their MRSA rate. It was disappointing that Monitor had failed to take account of either the size of Trusts or their case mix when labelling the Trust as having the second worst rate of MRSA based only on the number of cases. The Chief Nurse said that, whilst the use of absolute numbers was not always helpful, this was how the Department of Health had been measuring this issue for some time now. This issue should not obscure the need of the Trust to embed actions that have now been taken, to audit the results and to tackle poor practice.

The Chief Executive said she would respond and she had also asked Michele Morris (in the absence of the Chief Nurse) to make a presentation concerning this matter to the Chief Operating Officer who was visiting the Trust on 11 March. The Board agreed that it should be made clear that Monitor was invited to attend the Trust at any time to see what was being done. The letter was set out in detail the issues that confronted the Trust such as the MRSA rates in the community and other hospitals, the steps taken by the Trust on admittance of patients and the results of the independent report from the Department of Health. The reply would be circulated to members of the Board.

3. Children’s Hospital – A number of UHB clinicians who work at Birmingham Children’s Hospital have expressed dissatisfaction with the support they are currently receiving. The Chief Executive has now discussed this formally with Heart of Birmingham and South Birmingham PCTs and it would appear that they are keen for UHB to commence providing tertiary

children's services. The Chief Executive and the Medical Director were meeting with Cynthia Bower from the Strategic Health Authority to discuss this issue this evening. Any such decision will have implications for the Trust's estate and this will be one of the things that will be discussed at the Seminar in March. The Director of Finance was currently looking at the issues regarding costs and capacity. It was noted that providing such services would also assist with the issues that the Trust faces in dealing with children in the A&E department. The Chief Operating Officer asked the Director of Corporate Affairs to see if the proposal would have any impact on the Trust's NHSLA situation.

ACTION: DCA

It was noted that the proposal could not come into effect until the move into the New Hospital had been completed. The Board discussed this and agreed that it should proceed along the lines indicated with the appropriate decisions being brought back to the Board at a later date.

D08/32 BNHP Monthly Programme Status Report

The New Hospital Project Director presented her report to the Board and confirmed that progress continued well on the project and that the Mental Health Trust was on track for the early handover of their buildings on 14 March. Although there was an issue regarding one of the buildings, this was not sufficient to delay the takeover so the Mental Health Trust will occupy the new building in any event. The subsequent demolition of the existing QEPH was the main issue for this Trust.

As previously mentioned, the issues surrounding retained estate would be dealt with in detail at the March Seminar and this would include discussion regarding the hard shelled ward variation.

There remained some difficulties around design issues in relation to major medical equipment. It has now been confirmed that the design was not correct with regard to the Cath Labs and the Angiography Lab but there would be a better understanding of the problem by the end of the month. There would need to be a discussion with Consort and Balfour Beatty as to who bore the contractual liability for these issues. The replacement for the current Consort Contract Manager, Ian Woosey, was expected to be in post by the end of March.

The NHPD directed the Board to the section of the report that dealt with the Learning Hub. There was a need for a further £50,000 of capital to be allocated to this project following finalisation of the tenders.

With regard to the Selly Oak site, the NHPD reported that the re-draft of the Council's special planning guidance was not quite reflected of

the Trust's requirements and further discussions were now taking place between the Trust and BCC in order to attempt to resolve this.

The Trust had received advice from KPMG regarding the opting to tax of the Selly Oak Site. At the moment it was not necessary to take the formal decision to opt to tax, although the Board needed to note this intention.

The Strategic Clinical Design Board would formally report back to the Board in March.

The Board discussed the significance of the handover of the Mental Health buildings to BSMHT and noted that the following stage would be the demolition of what the public might regard as being comparatively new buildings. The Director of Communications explained that the Communications group had been set up with BSMHT to ensure that both sides were aware of what was going on. The Trust has agreed a PR strategy with the joint venture company and would soon be able to invite the press into the New Hospital combining that with the staff visits. It is also planned to have a celebration in August regarding progress on the New Hospital.

The Board noted the access issue for the new mental health buildings and it was reported that local councillors' concerns had been raised by Birmingham City Council. As it was the failure of Birmingham City Council to build the new road that has led to these access issues it was considered somewhat ironic that they were now asking the Trust to deal with the concerns of their own councillors.

Resolved to:

- i) accept the progress reported in the New Hospital Project Director's Report;**
- ii) to approve the intention to make a taxable sale of the land and property relating to the Selly Oak Hospital Site by exercising its election to waive exemption in respect of VAT; and**
- iii) to approve the further lift of the budget for the Learning Hub Project by the sum of £50,000.**

D08/33 Land Transactions Approval Request

The New Hospital Project Director presented her report seeking approval of the Board to the amendment of previously approved documents and the use of the Trust Seal for completing such documents in relation to the granting of a new lease to the Birmingham Solihull Mental Health Trust at the same time accepting the surrender of the existing lease. The Board noted the financial and legal implications of these transactions and that they were required as part of the New Hospital Project agreement; they further noted that the emergency action taken by the Chairman and Chief Executive on

8 February 2008.

Resolved:

- i) **to approve the proposed amendments to the previously agreed drafts of the Deed of Surrender and Lease;**
- ii) **to authorise the Director of Finance to approve the final form of such documents; and**
- iii) **to authorise any two statutory directors of the Trust or any one such director and the Foundation Secretary to execute the documents by the use of the Trust Seal.**

D08/34 Major Medical Imaging Equipment Outline Business Case

The NHPD presented the paper to the Board outlining the business case in relation to major medical imaging equipment. She explained that this paper was seeking approval to progress on to the next stage which was to hold a mini competition in order to get clarity on the actual values of the equipment to be purchased. This would allow the Trust to carry out necessary work regarding staffing and revenue implications. It was hoped that a complete picture would be available in May at which time the formal approval of the Board would be sought. At present the indicative capital cost was in the region of £20.9m

The Board recalled that a full discussion regarding the issues set out in the business case had been held in the Board's January Seminar.

There was discussion of the work being undertaken to provide a "on demand" service which involved undertaking routine work as efficiently as possible in order to free up time for emergency work. It was acknowledged that the equipment being acquired by this programme would give flexibility which would help to achieve this. The Chief Operating Officer reported that two assistant divisional directors are currently assigned to look at 24/7 working, length of stay and on demand services.

The NHPD reported that the present programme had been developed following discussions with Balfour Beatty in order to determine the shortest time frame for completion of the move into the New Hospital. Unnecessary steps have been taken out of the process and discussions were being stepped up between Consort and the Trust with regard to how this process can be shortened and moved if the New Hospital is delivered early. The NHPD commented that the equipment programme added to the uncertainty in relation to the ability of the Trust to achieve an early move and there would be better understanding of whether it was possible to achieve an early handover in June or July this year.

Resolved:

- i) to approve the continuation of the procurement process for the 49 items of major medical equipment set out in table 22 of the report;**
- ii) to approve the requesting of additional quotes for a potential additional MRI inter-optive scanner and a potential additional cardiac catheter lab as outlined in Section 5 of the Report;**
- iii) to approve that the project team continue with the variations identified in Section 8 of the report; and**
- iv) to approve that the full business case will be presented to the Board in May 2008 with final costs noting that the award of contracts will need to be approved at that date to ensure contract deadlines for the provision of information are met.**

D08/35 Capital Programme Update

The NHPD presented her report regarding the capital programme to the Board. The additional allocation of PDC for radiotherapy of £57,000 was noted and the Board of Directors resolved to:

- i) accept the progress made against the 2007/08 capital programme;**
- ii) note the forecast outturn for the 2007/08 capital programme;**
- iii) approve the expenditure and corresponding drawdown of PDC for radiotherapy equipment to the value of £57,000; and**
- iv) approve the additional costs relating to the completion of the Learning Hub.**

D08/36 Establishment of a rolling programme for the replacement of beds

The Chief Nurse presented this paper to the Board. The responsibility for maintenance costs was discussed and it was noted that on moving into the New Hospital, Consort would take responsibility for the maintenance cost of new beds. The proposal that the funding for these new beds be taken from existing ward/departmental environmental budgets was discussed and it was felt that staff would appreciate the reasons for spending this money. It was noted that the average life of a bed was 15 years.

Resolved:

- i) to approve the proposed bed replacement programme; and
- ii) to approve the associated changes to budget allocation and the expenditure as set out in the report.

D08/37 Financial Plan 2008/09 – Update 1

The Director of Finance presented the paper to the Board setting out the first draft of the financial plan for 2008/09. The final plan will be presented to the Board in April. At this stage further work needed to be done in order to resolve divisional budgets although this had nearly been achieved. The Trust had nearly agreed its healthcare contracts for that year and the Director of Finance was able to report that at this stage it would appear that they will be agreeing these contracts at levels close the projected high end of income. It was noted that pay awards were still outstanding and therefore appropriate contingencies have been made in relation to this and PCT expenditure in relation to infection control provisions which is still to be agreed.

The Board also considered the issues relating to the new model acute contract that was set out in the annexe to the paper. It was noted that this Trust had a very strong relationship with its Lead Commissioner, South Birmingham PCT, and it was felt that this PCT would be reluctant to impose penalties. It was noted that other Foundation Trusts were experiencing a more difficult negotiating process with their PCTs and indeed some were apparently considering taking Monitor's judicial review. Due to the Trust's excellent relationship with its own lead PCT it was considered that this Trust was in a better position than most. The worse case scenario for the Trust would be if it suffered penalties in respect of both the eighteen weeks target and the C.Diff target which could in theory have an impact of up to £10m on the Trust. However it was felt that, in line with the legal advice that had been obtained by the Foundation Trust Network, a penalty of £10m would not be justifiable by the PCT. Accordingly, a £2m provision had been made in respect of this.

It was agreed that some additional information regarding the second and third years of the three year plan would be provided in the version of the report that came back to the Board in April. There was also some discussion about the impact of the adoption of IFRS. It was agreed that the Board should receive some information on the impact of this at the appropriate time which is expected to be within three to six months.

Resolved: to accept the report.

D08/38 Corporate Social Responsibility Report

The Director of Planning and Performance presented a report about corporate social responsibility of the Board.

The Board discussed the opportunities that may arise in relation to PR with regard to the contents of the report. The Director of Communications agreed to look at what could be done in relation to internal newsletters and the local media.

It was also felt that the Trust could consider issues outside of the limited scope of the tool used for the self-assessment referred to in the paper, such as the support that the Trust was giving to local artists through the project for Art for the New Hospital.

Resolved: to accept the progress made toward achieving excellence as a corporate citizen and to undertaken further work in relation to art support and other areas.

D08/39 Monitor Letter – Effective Governance in NHS Foundation Trusts

The Director of Corporate Affairs presented a report to the Board concerning the letter recently received from Monitor regarding effective governance in NHS Foundation Trusts. The Board carefully considered the issues identified in the letter and carefully noted the Trust's position as set out in the paper.

D08/40 Consultation on amendments to Monitor's Compliance Framework

The Director of Corporate Affairs presented a paper outlining the consultation that Monitor was currently undertaking with regard to proposed amendments to its compliance framework. The Board discussed the implications for the Trust of the changes and their proposed response to the consultation. They also discussed the proposed consultation response circulated by the Foundation Trust Network. The reference in the latter to reluctance on the part of Foundation Trust Boards to invest surpluses and a propensity to manage cash to safeguard risk ratings was discussed in the context of the Trust's ten year financial plan for funding of the New Hospital.

Monitor's proposed approach to the introduction of IFRS was discussed and it was agreed that the approach proposed by Monitor appeared to be the most pragmatic way forward.

The Board discussed its involvement in the Foundation Trust Network and noted that there were possible alternatives such as the network of large acute foundation trusts/university hospitals that may be more effective.

Resolved: to respond to the Monitor's consultation as set out in the draft response.

D08/41 NHSLA Risk Management Standards

The Director of Corporate Affairs presented this report to the Board. The amount of work that attaining level 3 status may involve was discussed but it was agreed that this should remain an ultimate objective albeit that the timescale for working towards this should be assessed following the December level 2 assessment.

Resolved:

- i) **to agree that the Trust should seek to maintain its present level 2 status with the assessment due to take place in December 2008;**
- ii) **to agree that the Trust should seek to work towards level 3 status as soon as is practicable with a target time frame to be agreed following December 2008 assessment; and**
- iii) **to approve the proposals set out in Section 3 of the report.**

D08/42 Key Performance Indicators Report

The Director of Planning and Performance presented the monthly performance indicators report. The Board discussed the eighteen weeks target. The Chief Operating Officer advised the Board that the Department of Health had now set new targets regarding data quality which meant that the Trust could still hit the target for eighteen weeks attendances by patients but still fail the Department of Health's standards because of the way these data quality targets worked. The Board noted the risk to the Trust arising from this rather strange arrangement and expressed some amazement at this approach by the Department of Health.

Resolved: to accept the report on progress made towards achieving performance targets and associated actions.

D08/43 Monthly Finance and Activity Report

The Finance Director presented the monthly Finance and Activity Report. After confirming the strong performance as set out in the report, he explained to the Board that an issue had arisen in relation to the provisions the Trust had been intended to make with regard to its planning for New Hospital costs. At a somewhat late stage in the process, KPMG had now advised that in order to make provisions relating to a PFI project, the event actually has to have taken place. i.e. the Trust will need to have moved into the New Hospital before it can make provisions. The Finance Director expressed some disappointment of the fact that this advice had not been provided earlier and has subsequently sought alternative advice. He was now considering three options:

- 1 Proceed with provisions as far as is allowable;

- 2 When preparing the accounts for subsequent years, treat costs arising out of the move into the New Hospital as exceptional costs which therefore would have no impact on the Trust's risk rating. However, IRFS does not recognise exceptional costs in their own right but does talk about the concept;
- 3 Utilise the transitional support from the Strategic Health Authority on a different time basis so that it would match up against double costs. This would leave a potential problem in about 2015-2017 but the financial plan has yet to factor in the proceeds of the land sale arising from the disposal of the Selly Oak site.

Further work was being undertaken into each of three alternatives. The position remained that there would be a surplus in the current year. The fact that the Trust was able to generate a substantial surplus was of course something to be positively acknowledged with regard to the affordability of the New Hospital

Resolved: to receive the report

D08/44 Clinical Quality Monitoring Report

The Medical Director presented the monthly report on Clinical Quality Monitoring. He updated the Board in relation to the ongoing investigations into consultant performance. With regard to serious clinical incidences, an investigation was being undertaken as to whether there was any connection between the first two incidents reported, both involving swabs being retained in the patients. This had been the first swab incidents in the Trust for several years. With regard to the third incident of a patient experiencing a period of awareness during surgery, the Board noted that these events can have a significant impact on a patient from a psychological point of view. The Medical Director confirmed that the patient was being looked after in accordance with local and national protocols and that an immediate investigation had indicated that nothing was obviously wrong with procedures undertaken by the anaesthetist.

With regard to the ongoing investigation into the preponderance of problems arising from discharges from critical care towards the end of the week, work was still progressing on this matter from a practical point of view despite the absence due to sickness mentioned in the report.

The Board received a very positive report regarding the recent clinical governance visit to the Selly Oak Critical Care Department. Lots of good practice had been noted, in particular, good patient and relative care and good communication. An area for improvement related to insufficient storage space that was available for unused equipment and additional external storage was being created for large items.

The Board further discussed some issues regarding the investigation of fraudulent CVs and qualifications by medical staff. A system for this had now been established with the local counter fraud service.

Resolved: to accept the report

D08/45 Infection Control Report

The Chief Nurse presented the monthly Infection Control Report. She said that an investigation had been undertaken to look at whether there was any link to the fact that the number of MRSA cases seem to increase towards the end of each month although no link had been found to date. The Infection Control team were now focussing on rolling out the good standards and good practice that had been developed within the MRSA Cohort ward across the rest of the hospital. Root cause analysis has been stepped up now to include divisional management teams.

The Board acknowledged the step change that needed to be made in relation to hospital acquired infections with regard to the targets that would apply to the Trust for the coming year. It was also acknowledged that the measures taken to date needed to be given an opportunity to have an effect. There was recognition across the Board of the amount of work to be done and that the Trust should continue to set standards, audit its progress against those standards and take action in relation to non-compliance.

Resolved: to accept the report.

D08/46 Task & Finish Group Action Plan Update – Infection Control

The Chief Nurse presented an update to the Board concerning the work undertaken by the Infection Control Task & Finish Group. The Chair of the Group, Stewart Dobson, confirmed that the Group had looked at each of the 41 actions that had been agreed at the outset and assured itself that every action had either been implemented or was now set out in the core Infection Control Action Plan. He felt it was now appropriate for the Trust's Task & Finish Group to stand down although it was noted that the Non-Executive Director hand washing visits would continue as part of the Trust's infection control policy, with the results being entered into a formal audit process.

The Chairman discussed with the Board the setting up of a further Task & Finish Group with a wider remit that this one to focus on patient care. The involvement of the Governors in such a group was discussed and the Chairman said that he would discuss this with the Board of Governors particularly with regard to proposals regarding the Choosing Health Group.

Resolved:

- i) to dissolve the Infection Control Task & Finish Group; and**
- ii) to set up a Patient Care Task & Finish Group to be Chaired by the Rt Reverend Mark Santer with Tony Huq and Clare Robinson as the Non-Executive Director members and Kay Fawcett as the lead Executive Director member.**

D08/47 Appointment of Consultant Ophthalmologist

Resolved: To approve the appointment of a Consultant Ophthalmologist.

D08/48 Appointment of Consultant Histopathologist

Resolved: To approve the appointment of a replacement Consultant Histopathologist.

D08/49 Appointment of Consultant Dermatologist

Resolved: To approve the appointment of a Consultant Dermatologist.

D08/50 Appointment of Consultant Interventional Radiologist

Resolved: To approve the appointment of a Consultant Interventional Radiologist.

D08/51 Officers Nominated to Open Tenders

Resolved: That any two of the officers set out on the list attached to the report, acting together, are hereby authorised to open tenders on behalf of the Trust.

D08/52 Board of Directors' Declaration of Interests

Resolved : To accept the Declaration of Interest set out in the report to record the acceptance of the interests as declared and for the Director of Corporate Affairs to cause the interest to be entered into the Trust's Register of Interests.

D08/53 Chairman/CEO Emergency Actions

The Board noted the emergency action taken by the Chairman and Chief Executive as previously referred to under the item headed "Land Transaction Approvals Report".

COMMERCIAL IN CONFIDENCE

University Hospital Birmingham
NHS Foundation Trust



D08/54 Date of Next Meeting: Thursday 27 March 2008
Board Room Trust HQ 1.00pm