

**Minutes of the Board of Directors
of Heart of England NHS Foundation Trust
held in Room 2, Education Centre, Birmingham Heartlands Hospital
on 22 January 2018 at 12.30 pm.**

PRESENT:

Rt Hon J Smith, interim Chair
Mr J Brotherton, Director of Operations
Mr A Edwards, Non-executive Director
Mrs M Garbett, interim Chief Nurse
Prof J Glasby, Non-executive Director
Mrs J Hendley, Non-executive Director
Dr M Kinski, Non-executive Director
Miss K Kneller, Non-executive Director
Miss M Lalani, Non-executive Director
Mr J Miller, interim Finance Director
Dame J Moore, interim Chief Executive Officer
Dr D Rosser, interim Medical Director
Prof M Sheppard, Non-executive Director

IN ATTENDANCE:

Ms F Alexander, interim Director of Communications
Mr K Bolger, interim Deputy Chief Executive - Improvement
Mr D Burbridge, interim Director of Corporate Affairs
Mrs A Hudson, Senior Executive Assistant (Minutes)
Mr L Tallon, Director of Corporate Strategy, Planning & Performance at UHB

GOVERNORS

Mr S Baldwin, Governor
Mrs S Hutchings, Governor
Mrs V Morgan, Governor
Mrs J Thomas, Lead Governor

Members of the Public
Representatives from CQC

18.001 APOLOGIES & WELCOME

The Chair welcomed everyone to the meeting. A particularly warm welcome was given to Margaret Garbett, acting Chief Nurse and representatives from the CQC.

Apologies had been received from Mrs Wyton.

18.002 DECLARATIONS OF INTEREST

None

18.003 MINUTES OF PREVIOUS MEETING

The minutes of the meeting held on 23 October 2017 were considered and approved as a true and accurate record.

18.004 MATTERS ARISING

None.

18.005 CHAIRS UPDATE AND EMERGING ISSUES

The Chair reported on the Case for Change transaction process. A response to the letter sent by UHB to NHSI seeking assurances in respect of finances, future liabilities and recompense for the cost of the transaction was still awaited; some progress had been made but full assurance had yet to be given. The Chair and CEO had met with the new Chair and CEO of NHSI in December, who had advised that, as they were new in post, they wished to review the process from the beginning. Our Chair and CEO had been very clear on the views of UHB and HEFT Boards on the current situation, including the need for certainty around STF funding. The NHSI Board was due to meet and discuss the situation.

The Trusts local MPs and the Mayor of the West Midlands continued to lobby Parliament on behalf of the Trust.

Behind the scenes, work ahead of the transaction continued, including keeping staff up to date with progress. A joint panel of the HEFT and UHB Council of Governor Appointment Committees had held interviews and agreed to take make five recommendations to fill NED vacancies on the new enlarged Board. The five candidates who had applied (Jackie Hendley, Mehrunnisa Lalani, Michael Sheppard, Jon Glasby and Karen Kneller) had been recommended for appointment. The joint CoG Appointments Committee had reported how impressed they had been with the quality of the candidates and interviews.

In the wider health system, the three local CCGs were coming together as one organisation and had appointed a Chair and Lay Vice Chair.

The Chair and CEO continued to attend regular meetings of the Birmingham and Solihull Health Scrutiny Committee.

The Chair and interim Medical Director had attended a meeting of the Breast Cancer Group who had undertaken the task of contacting, reviewing and co-ordinating all follow-up appointments during the recall of all Paterson patients. The Chair had thanked staff and reassured them that the Board would continue to support them, should there being any future inquiry.

The Chair of the Audit Committee reported that, due to the delay in the transaction, the Internal Auditors had been asked to produce an audit plan for the first six months of the new financial year 2018/19.

There was a discussion about whether the delay had been due to NHSI having concerns around the principles of trusts merging. The Chair advised this was not the case. Rather, the delay was around the UHB Board wanting assurances around the 'red lines' as set out in their letter to NHSI, who had not been able to provide those assurances. It was believed that many other trusts would ultimately follow that same route and NHSI need to agree a system to support them. The CEO reported that the Secretary of State, who had recently visited UHB, had stated that it was the view of the Prime Minister and his office that the merger needed to go ahead.

Resolved: to receive the report

18.006 PERFORMANCE REPORT Q2

The Board considered the report presented by the interim Deputy CEO - Improvement that summarised the Trust's performance against targets and indicators in the Single Oversight Framework, contractual targets and internal targets. The A&E 4 hour standard had not been met and remained a risk for the Trust. Performance had declined slightly in December to 76.30% from 77.98% in November. There had been 22,350 attendances in December (an average of 714 patients per day). Overall figures now included attendees to the walk in centres and alternative routes for attending ED.

The Director of Operations gave an overview on the work that had been implemented as part of Winter Planning during January. This included the expansion of ambulatory emergency care capacity to reduce the number of patients requiring admission; expansion of the frailty service to help avoid unnecessary admission of frail patients with complex needs; additional senior emergency medical staff to cope with increased patient acuity; utilisation of the discharge lounge in order to make beds available earlier in the day for new patients requiring admission and additional inpatient beds at Good Hope and Solihull Hospital. Where elective surgery had been cancelled, theatre teams were being used to undertake emergency work. A full list of the actions taken was set out in the report.

The cancellation of elective activity had resulted in a detrimental impact on elective performance and, as a result, the Trust had not met the 18 week RTT target in December 2017. Further RTT performance remained at risk given the ongoing volume of elective inpatient activity being cancelled, but it was expected that performance would be back on plan by February.

In order to mitigate the impact on long-waiting patients, the Trust had secured the transfer of approximately 200 long-waiting elective patients to the independent sector via Inter-Provider Transfer arrangements. Day surgery capacity at Solihull had also been maximised.

The Board discussed the impact that the escalated pressures had on staff and it was reported that staff had gone above and beyond including offering to cover extra discretionary shifts in to manage the situation.

The Board expressed their gratitude and asked that their thanks were passed onto staff for their dedication and commitment.

All cancer targets had been achieved.

In November, there had been 8 cancer long waits patients and 3 in December, treated in excess of 104 days from referral.

There had been one urgent operation cancelled twice in December within Vascular surgery, the operation had been carried out 48 hours post last cancellation.

Following the implementation of the new Emergency Care Data Set at the end of October, it had not been possible to validate 30 minute ambulance handover breaches. It was anticipated that the tool would be back on line at the end of January. There had been 14 confirmed 60 minute ambulance handover breaches (99.8%) for November with the Trust achieving the required threshold of 99%.

There had been one sleeping accommodation breach reported in December 2017 that had affected five patients in the acute medical unit at GHH.

The Trust had not achieved the DTOC target for December, achieving 1.42% against a target of 1.4%. Due to the increased pressures, the January target was also at risk of not being achieved. It was forecast that results would not be as high as previous years due to the additional work that had been implemented.

The Board held a discussion on whether there was potential for improvement in DTOC's in the longer term and it was considered that there was. The Director of Operations reported that there was a definite feeling of improved collaborative reporting. There had also been significant changes in senior staff leadership positions within social care. The work of the STP looking at the problem from the patients point of view had also had a positive impact on working towards a solution.

Of the 14 maternity screening indicators, reported a quarter in arrears, the Trust had failed to meet 4. There was a new senior manager in place and action plans had been put in place to monitor performance. It was expected that all targets would be achieved by Q3.

Performance against the Information Governance Mandatory Training target of 95% has decreased slightly in month, with performance at 84.54% in December, due to the transfer of staff from G4S to HEFT. An action plan was in place.

Appraisals had improved slightly during December at 87.81% above the 85% CCG target. However, these were still below the internal target of 90%.

Voluntary turnover remained static at 10.51% in month. The online exit monitoring tool had improved the quality of the information obtained from leavers with the key reasons being promotion, further education and work life balance including location of home to work. YTD performance was 32.48%.

With the exception of STP and Sepsis, all CQUINs had been achieved in Quarter 2.

Resolved:

- To accept the report
- To note progress made

18.007 CLINICAL QUALITY MONITORING REPORT

The Board considered the report presented by the interim Medical Director that provided assurance on clinical quality and detailed action being taken following the Joint CQMG meeting held in December 2017 and the HEFT Clinical Quality Monitoring Group (CQMG) in January 2018.

There were five Doctors currently subject to investigation, relating to four Consultant Grade Doctors and one Specialty Doctor.

There had been one CCS (Clinical Classification System) group with a higher than expected mortality 'Pneumonia (except that caused by tuberculosis or sexually transmitted disease)' (122), with 31.74 expected but it had not triggered a Care Quality Commission (CQC) mortality alert in September 2017. Following a review of a sample of patients, all patients had received appropriate care and none of the deaths were unexpected, with multiple comorbidities present in an elderly cohort.

The Trust's mortality rate was within acceptable limits and there were no overall concerns.

In line with national 'Learning from Deaths' requirements, a summary of all results of reviews of inpatient deaths during Quarter 3 2017/18 had been undertaken. The

results from both UHB and HEFT had been collated for benchmarking purposes. HEFT used a different scoring system but would be moving to the Royal College of Physicians (RCP) Avoidability of Death Scoring used by UHB. Any cases that had been identified by the Medical Examiners as having potential shortfalls had been escalated to the Clinical and Professional Review of Incidents (CaPRI) Group as per Trust processes to provide further review.

There had been one reportable death reviewed and escalated in line with Trust processes where no significant concerns in care were identified. The interim Medical Director confirmed that, all deaths were reviewed.

The Board of Directors' Unannounced Governance Visit in December 2017 had been to the Delivery Unit (Maternity) at Good Hope Hospital. Overall, this had been a positive visit; the ward was clean and well organised and received good feedback from both patients and staff.

Resolved: to accept the report

18.008 CARE QUALITY REPORT

The Chair welcomed Margaret Garbett, the acting Chief Nurse, to her first meeting of the Board.

The Board considered the Care Quality Report presented by the acting Chief Nurse. There had been no cases of MRSA in December. There had been two cases of post 48 hour CDiff reported. This was within the Trust monthly trajectory of six cases for the month. The total number of cases for the year was 47, against a YTD trajectory of 47, and an annual trajectory of 64 cases.

A community outbreak of measles had been reported in November 2017. To date, a total of 12 inpatients at Birmingham Heartlands Hospital had been identified with measles, all of which were community acquired cases.

There had been 1 avoidable grade 4 pressure ulcer in October 2017. The Trust had a zero tolerance target for grade 4 pressure ulcers. The case had been reviewed and an action plan put in place that included extensive staff training; a performance notice for the ward concerned had also been issued.

There had been 5 avoidable grade 2 pressure ulcers and no avoidable grade 3 pressure ulcers reported in October 2017. It was reported that Division 5 had not had a grade 3 pressure ulcer over the last 12 months and the Tissue Viability teams were working with the divisions to share learning and good practice.

Dementia screening performance was 81.95% against the 90% Trust target. Due to the slow progress being made by Divisions, individual actions plans were in place and being monitored.

Parkinson's medication compliance was 76.71% against a target of 90%. A review of the process was to be undertaken to understand why the target had not improved

In response to a question on the impact to the patient of a delay in the administration of Parkinson medications, the interim Medical Director reported that, in many cases Parkinson medication was used for other conditions. Due to the prescribing system, this could result in the figures being misleading.

The Admissions, Discharge and Transfer (ADT) target had improved slightly but remained non-compliant at 88.09% in November. This was a reflection of additional

flexed wards being open.

There had been no areas of concern regarding nurse staffing compliance with UNIFY for November 2017. Critical care and paediatrics, although rated red, were safely staffed, with twice daily reviews being undertaken. These areas were staffed based on the acuity of patients which fluctuated throughout each day.

The number of qualified vacancies was 334.58 WTE in November 2017, a reduction of 44.27 WTE in month and the third consecutive month where qualified vacancies had decreased. There were 150 registered new starters which included experienced as well as newly qualified nurses. There were also 56 unregistered nurses due to commence employment with the Trust.

Discussions were planned with UHB and HEFT regarding possible options around overseas recruitment. Further cohorts of Trainee Nursing Associates were being scoped for 2018 based on the funding support from Health Education England.

The performance rate for dealing with received complaints continued to improve and was 69% for October 2017 and November 2017. The number of older complaints had continued to reduce. In response to a question around the number of complaints referred to the Parliamentary Ombudsman, the acting Chief Nurse advised that the number of complaints referred was low, but was unsure of the actual number.

During November 2017, the percentage of positive responders for the Friends and Family Test (FFT) had increased in month to 95% for inpatients. For Emergency Departments, the positive responder score remained static at 80% for November 2017.

Response rates had increased by 5% in November 2017 to 36% for inpatients, compared to 31% in October 2017. The response rate for Emergency Departments had decreased slightly to 13%, compared to 14% in October 2017.

Resolved: to accept the report

18.009

ADULT INPATIENT AND AMU/SAU ACUITY & DEPENDENCY WORKFORCE REVIEW - SEPTEMBER 2017

The Board considered the report presented by the acting Chief Nurse. The report focused on the workforce review for adult inpatient wards and AMU's/ SAU's across the Trust undertaken in September 2017.

There was a current qualified nurse vacancy rate of circa 270wte across the areas included in the review, compared with circa 150wte in 2016. 38wte of the increase could be attributed to the establishment of two additional inpatient wards, and a further 47wte to the increase in headroom from 20% to 25%. External agency usage was approximately 3%, but the Trust was working to reduce this.

The Board received assurance that the Trust remained compliant with actual staffing levels as reported to UNIFY on a monthly basis through a combination of substantive and temporary staffing. The Trust was working to ensure that the right number of staff were in the right areas. A review was being undertaken on areas where there was a frequent use of agency staff being used.

The current vacancy gap for qualified nurses had resulted in the use of qualified agency nurses, with 43% of the clinical areas included in the review using above 5% of actual staffing hours on external agency usage (KPI 3%). There appeared to be no significant correlation between the use of external agency and harm free care

through the measurement of falls and avoidable pressure damage.

There were 5 ward areas that were red rated for harm free care and further quality reviews to understand and rectify performance were to be undertaken.

Overall, the acuity and dependency workforce review indicated that the funded establishment on inpatient wards and AMU's/SAU's was sufficient. However the current vacancy gap needed to be addressed.

It was recommended that Divisional Head Nurses were held accountable along with the divisional triumvirate for rectification of staffing in the areas of concern.

The Board supported actions to increase current recruitment activity, including a review of the options for further cohorts of Trainee Nurse Associates.

Resolved: to accept the report

18.010 FINANCE REPORT Q3 UPDATE

The Board considered the report, presented by the interim Finance Director, that provided an update on the Trust's financial position for the period ended 30 December 2017 (Month 9). The Trust had agreed a planned deficit of (£7.5m) for 2017/18 in line with the control total set by NHSI. The plan included (£21.3m) of STF income subject to delivering the pre-STF position. 30% of the STF was contingent on meeting the ED trajectory. The plan, prior to STF, had a deficit of (£28.8m). For Month 9 the Trust had reported an actual deficit of (£4.9m) which was (£2.5m) above the pre-STF plan of (£2.4m). On a year to date basis the deficit was now (£43.0m) against a pre-STF plan of (£21.7m) i.e. an adverse variance of (£21.3m). Because the deficit was above plan, no STF had been assumed.

The Trust had received confirmation that it would receive £4.2m of winter funding of which £2.2m was to cover existing winter costs resulting in the forecast reducing to (£46.2m).

Given the year to date position, the revised forecast was very unlikely to be achieved. This was due to the deterioration in healthcare income (£10.3m) below plan YTD. The forecast was produced at M5 when income was only (£2.5m) and made explicit the assumption that it would recover in line with plan. January was likely to have a further detrimental impact with the cancellation of elective surgery (except cancers and urgent operations) and loss of day-case capacity at Good Hope potentially costing up to £4m. Income under-recovery was not a loss to the health economy (as CCG's benefitted).

Efficiency was (£0.2m) in month / (£14.0m) YTD. The YTD delivery £10.1m was consistent with overall delivery of £15.3m / 2.2% against an unachievable target of £33.2m / 4.7% that NHSI had acknowledged by way of the agreement of the revised forecast. Cost control pay was (£0.4m) above plan.

The cash position was £16.9m which included the working capital loan of £22.4m equating to (£5.5m) in net terms.

The Use of Resources Metric (UoR) was 4 due to the increase in agency expenditure during December 2017.

The Board discussed the impact of cancelling all elective operations on the financial position and it was reported that although the Trust would lose 100% of tariff for work that it had been instructed to cancel on instruction from NHSI. However it would

receive income for the emergency work carried out. Discussions were being held with NHSI around the financial challenges the loss of income would have. In response to a question as to whether cancelled outpatient appointments, and any lost income could be recovered by way of additional clinics it was reported that the Trust had already put additional clinics on where it was able.

In response to a question on what happened to additional funding following the transaction, it was reported that this was one of the outstanding assurances still to be addressed. Under rules of the working capital loan the Trust was only able to maintain a cash balance of £3m, any additional cash would have to be repaid.

The Board received an update on the Capital Expenditure for Q3. The annual plan was a spend of £20.1m which included Ambulatory Care and Diagnostic (ACAD) build expenditure of £3.1m. The total spend to date was £9.3m against a plan of £14.9m YTD with slippage of £5.6m across a number of areas. Divisions were being encouraged to deliver on their spending plans. The latest forecast was a total spend of £18.6m which was £1.5m below plan.

Planning permission for the ACAD build had been received and the Trust was now waiting for confirmation of funding from NHSI.

Resolved: to accept the report

18.011 BOARD ASSURANCE FRAMEWORK

The Board considered and discussed the paper presented by the interim Director of Corporate Affairs. The Board Assurance Framework (BAF) provided assurance that the Board was aware of the risks to its key objectives and had a robust system of internal control in place. The BAF had been reviewed and updated and there were currently 13 risks on the register of which 9 were scored as Red, 1 amber and 3 yellow.

The BAF was supported by the operational clinical risk registers which were managed and escalated from the clinical directorates and divisions as well as the Executive (corporate) risk registers that identified the more detailed risks associated with the day to day delivery of Trust services. Operational risk registers were reviewed at quarterly update meetings with the Director of Operations and, with effect from June 2017, discussed at quarterly executive performance meetings.

The Chair of the Audit Committee reported that there had been a discussion at its meeting earlier that day when the Internal Auditors had challenged the evidencing of Board BAF discussion in its minutes. The Committee had held a vigorous discussion where it had had reassured the Auditors that robust discussion did take place and that the agenda was based on the BAF. Internal Audit accepted that position, but still required more detailed evidence within the minutes to that effect.

The interim Director of Corporate Affairs reported that there were 13 risks on the BAF, each of which had been updated following discussions with Executive Directors. Three changes to the existing risks were proposed, as follows:

SRR 2/16 Nursing workforce - to increase the current score from 12 (3x4) to 16 (4x4) based on internal concerns (increased demand ie new beds opened and seasonal fluctuations in sickness and turnover) and external concerns (effect of BREXIT, numbers of nurses leaving profession, NHSE mandates).

SRR 7/16 Case for Change - to amend the risk assessment and decrease current score to 8 (2x4) with a target score of 4 (1x4) as the delay had reduced due to the

reality of the transaction not having gone ahead as planned. The Board received assurance that back office work ahead of the transaction was continuing including comprehensive staff updates on progress.

SRR 4/17 High profile cases – to confirm current score as 8 (2x4) with a target score of 4 (1x4). The Board recognised that whilst the Court Case against Paterson had been finalised, an enquiry was to be held.

The Board reviewed the risks on the BAF.

SRR 1/15 Failure to deliver clinical operational standards – risks and mitigation discussed within performance report.

SRR 2/15 Leadership skills and capacity. The present interim leadership arrangement would continue until the transaction had taken place. The risk would remain on the register, but no action was required.

SRR 3/15 Current IT infrastructure. No specific paper on the agenda for today's meeting. There were a number of actions ongoing due for completion. Audit Committee had received an update at its meeting earlier that day.

SRR 1/6 Medical workforce - work continued in order to achieve the deadlines set out in the action plan.

SRR 3/16 The Physical Estate. The business case for the ACAD development had been signed off by the Board. Planning permission had been granted. Confirmation of funding was still required from NHSI and the Treasury.

STT 6/16 Brexit. There remained uncertainty around the specific impact in terms of workforce and finances, both of which were addressed within the performance and finance reports respectively. More specifically, there was a risk to the supply of radioisotopes that could only be procured through the EU and the Trust was unable to resolve that at the current time. The Trust had identified the risk and was seeking assurance from the DH around their continued supply.

SRR 8/16 Excessive and increasing delayed transfers of care. The Board considered whether the risk should be downgraded, but agreed that the current rating should remain but would continue to review it.

SRR 1/17 Failure to achieve the Financial Plan for 2017/18 – considered and discussed within the finance report.

SRR 2/17 Deterioration of Trust's cash position was considered and discussed as part of the Finance report. The Board had supported the application for interim revenue support and continued to monitor the need for additional support as and when required.

SRR 1/17 Breach of Regulatory Requirements. The Board received assurance through regular agenda items and reports to the Board that included performance reports, internal audit reports, Clinical Quality Monitoring Group, Care Quality and Compliance and Assurance Reports.

Following the review of the risk register, the Board were assured of the consideration and actions being undertaken. It was agreed that, going forward, that the risk BAF Risk Reference number checkbox would be completed on the front summary sheet for all Board reports

Resolved: to accept the report
to approve the proposed changes to risks SRR 2/16, SRR 7 /16 and SRR 4/17

18.012 COMPLIANCE & ASSURANCE REPORT

The Board considered the report presented by the interim Director of Corporate Affairs. The report set out the actions being taken on the internal and external assurance processes as at 31 December 2017.

The final CQC report had been published on 2 August 2017. The recommendations set out in the report were a combination of area specific and Trustwide recommendations and were split into 'must do' (18) and 'should do' (44). The Trust had asked the CQC for further information on one 'must do' action, as it had been unclear what was required. As a result of the request, the requirement had been removed, leaving a total of 17 'must do' recommendations. The majority of the recommendations had been completed or formed part of the Trust's business as usual. Nine of the seventeen 'must do' recommendations had been completed and actions plans were in place for the remaining eight.

The Clinical Audit and Governance Facilitation teams were actively working with Divisions and Directorates to increase response rates and compliance with NICE guidelines.

There had been two external visits during Q3 and one in Q2. The outstanding actions from the visits had been received and were being actively monitored.

The Trust was currently either participating in, or had participated in, 44/58 National Audits/registries and 10/11 Clinical Outcome Review Programmes (CORP) listed on the HQIP Quality Accounts that were actively collecting data during 2017/18, and that were applicable to acute and community trusts. There were 14 audits and 1 CORP currently not participated in by the Trust. The Trust was not able to fully participate in the National Core Diabetes Audit due to the extensive resource requirement to do so although the position was being reviewed.

Novel Techniques and Interventional Procedures (NTIP). There had been 63 proposals received of which 57 had been approved. The clinical audit team continued to review the status of audits. Five new proposals had been approved by the NTIP group for 2017/2018.

Resolved: The report was received.

CONSENT

18.013 QUALITY ACCOUNT UPDATE Q3

The Interim Medical Director presented the progress report that was taken as read.

Resolved: The report was received.

18.014 BUSINESS CASES FOR APPROVAL

The Board considered the following business cases:

18.014.1 Gastroenterology Workforce & Endoscopy Capacity Expansion. The Director of Operations, in response to a question as to why recruitment was over a 3 year

period, reported that the timeframe was based on historical experience. However the Trust would not turn away suitable candidates.

18.014.2 Replacement Anaesthetics Consultants

18.014.3 Replacement Radiologists Consultants

Resolved: To approve the proposed business cases.

18.015 ANY OTHER BUSINESS

None.

18.016 DATE OF NEXT MEETING

The next public meeting of the Board of Directors was scheduled for Monday 23 April 2018 to be held in the Education Centre, Birmingham Heartlands Hospital.

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Chair