



**Minutes of a meeting of the Board of Directors  
of Heart of England NHS Foundation Trust  
held in the Education Centre, Birmingham Heartlands Hospital  
on 6 January 2016 at 12.30pm**

**PRESENT:** J Smith, interim Chair  
A Catto, Medical Director  
J Brotherton, Director of Operations  
A Edwards, Non-executive Director  
S Foster, Chief Nurse  
J Glasby, Non-executive Director  
H Gunter, Director of Workforce & OD  
K Kneller, Non-executive Director  
D Lock, Non-executive Director  
J Moore, interim Chief Executive Officer

**IN ATTENDANCE:** M Cooke, Director of Strategy/ Deputy Medical Director  
K Bolger, interim Deputy Chief Executive Improvement  
A Hudson, Minutes  
J Miller, interim Finance Director  
D Rosser, interim Deputy Chief Executive Clinical Quality  
K Smith, Company Secretary

**Governors**

K Bell  
E Coulthard  
R Hughes  
M Hutchby  
S Hutchings  
J Thomas  
D Treadwell

and members of the public

**16.001 APOLOGIES & WELCOME**

The Chair welcomed everyone present to the meeting.

Apologies had been received from A Lord and J Rao.

**16.002 DECLARATIONS OF INTEREST**

The Directors' Register of Interests was received.

J Glasby declared that he undertook work on behalf of the University of Birmingham with Birmingham Safeguarding Children's Board from time to time.

### 16.003 MINUTES

The minutes of the meeting of 7 October 2015 were approved as a true record.

In relation to the minutes of the meeting of 4 November 2015 the following were noted:

15.161, first paragraph, A Lord had asked that the words 'adding value.' be replaced by 'adjusting the work plan of the Committee and Internal Audit, to reflect the changed risk arising from the Trust's deteriorating financial position.'

15.164, eleventh paragraph, J Brotherton noted that the words '£24m of' should be deleted, so that the sentence would read 'J Brotherton confirmed that demand/ capacity planning had been robust and included investment in five new wards'

15.165, third paragraph, K Kneller and A Edwards had volunteered to take the two new cases.

Subject to the foregoing the minutes were approved.

### 16.004 MATTERS ARISING & RECOMMENDATION TRACKING REPORT

There were no matters arising.

### 16.005 CHAIRS UPDATE REPORT

J Smith reported that during her first month in post she had undertaken some work on Board structures and familiarisation with the work being done within the organisation. She had attended several events including (1) the staff briefings that were now being held monthly at each of the main sites, these presented an opportunity to meet and hear from staff, (2) the Compassion Awards in Women & Children's, and (3) the HIV Saving Lives open day.

The Chair had also met with a number of external stakeholders including CCGs, chairs of other provider trusts and MP's. Together with J Moore, she had attended the Solihull Overview and Scrutiny Committee and met with Solihull Councillors. She had agreed to take over from L Lawrence as deputy Chair of ICASS and she had met with the new leader of Birmingham City Council regarding health and social care issues. Forthcoming meetings included Andrew Mitchell MP and representatives of the 'Save Good Hope Hospital Campaign'.

### 16.006 CHIEF EXECUTIVE'S REPORT

J Moore explained that the Chair had covered the matters she would otherwise have raised in her report.

## 16.007 PERFORMANCE REPORT

K Bolger presented a new style report that summarised the Trust's performance against national indicators and targets and the Trust's local priorities; material risks to the Trust's Provider Licence or Governance Ratings, finances, reputation or clinical quality that resulted from performance against indicators, in order to give an overall review of the position of the Trust and set out the actions for those indicators that were failing to achieve compliance with targets. It was intended that future reports would move to a more 'RAG-rated' update that included comments on improvements. As this was the first of the new style reports the commentary was more comprehensive than might be the case for future reports.

### ***Monitor Risk Assessment Framework***

Of the 13 indicators set out in the framework nine were on target; two cancer targets, the 4-hour A&E wait and the 18 week RTT incomplete pathway targets had not been met.

The 4-hour A&E target had continued to be challenging with performance over the last three weeks even lower but in line with national trends. The mitigations set out in the report had been implemented before Christmas but significant pressure still remained. There had been an 8% increase in attendance during November compared to the same month in 2014. Admissions from the Emergency Department had increased by 12% and there had been a significant increase in the number of delayed transfers of care (DTCs) related to failed discharges due to patient transport delays. The financial penalties were noted.

The Trust had missed two national cancer targets in October – 2 week wait from referral to appointment and the 62 day urgent GP referral to first treatment. There had been some positive work done over the last six months to improve the 62 day standard and the unvalidated position for November showed performance at 86.89% which was above the 85% target - operational teams were commended. 2 week waits had also shown improved performance with the unvalidated November performance at 93.06%; the first time since December 2013.

Referral to Treatment time (RTT) had improved to 91.34% and it was expected that the Trust would be on trajectory to achieve the 92% target at December 2015. The Good Hope Hospital Vanguard theatre had ceased and activity had been managed within house. It was noted that trusts did not get prior notice when public health warnings were issued or financial assistance with the consequential impact these had on demand.

### ***National targets monitored locally through CCG Contract***

Of the 15 national targets not included in Monitor's Risk Assessment Framework but included in the CCG contract the Trust had delivered nine with six targets were behind plan.

6 week diagnostics continued to improve; the biggest problem being Endoscopy. There was a Vanguard endoscopy unit on the Heartlands site but the increase in demand remained a challenge. In response to a question from J Glasby, D Rosser advised that the NICE guidance had resulted in an increase in referrals for over 50's without finance being assigned.

Work was underway to improve ambulance handovers; revalidation of breach data was also in hand. The financial penalty associated with handover breaches was noted.

Safer staffing would be covered in the Chief Nurse's report later in the agenda but it was noted that Midwifery and A&E were an areas of concern.

Consultant upgrade performance had deteriorated from 75.4% in September to 64.295 in October with a total of eight breaches.

There had been one sleeping accommodation breach in November affecting 5 patients, 1 female

and 4 male – work was underway to reduce the number of incidences.

There had been two breaches for urgent operations cancelled for the second time; both patients concerned were then operated on within 24 hours. The financial penalty was £5,000 per patient.

There had been no genuine 52 week breach patients; however there was one incomplete pathway 52 week breach Urology patient who was a legacy from the previous open clock cohort. The financial penalty for the breach was £5,000.

The reporting requirement on Duty of Candour had changed and would shortly begin reporting two months in arrears.

There had been one never event in November, there had been no harm but the case was under review. There was a potential financial penalty but it had not yet been calculated for this event.

### ***Local indicators – Contract/ local***

There were 53 indicators that reflect the Trust's priorities and contractual obligations; 22 were reported monthly, of these 16 were on target and six below target.

Babies at risk of TB - performance had dropped to 35.06% against a target of 98% due to a national shortage of the vaccine. Supplies had now been received and a number of catch up clinics were being held. Performance was back on track.

Breast feeding rates were below the 72% target and more work was required to understand cultural and other factors.

Appraisal rates were below the 85% target resulting in missed opportunities to discuss performance with staff.

The Trust was delivering its overall mandatory training performance; Information Governance training would be included going forward.

### ***Local indicators – internal***

The Trust had a number of internal KPIs that were reviewed on a monthly basis under the heading of workforce and quality and safety. Those not being achieved included:

Staff in post vs budget establishment (excluding nurses) – stood at 91.5% against a target of 95–100%. New recruitment controls were reducing appointments and therefore impacting performance for this target. D Lock questioned whether staff numbers were a true reflection of establishment required to operate the Trust efficiently. K Bolger explained that he was unable to give that assurance as more work was required to understand the numbers required and the impact of flex. Work had been undertaken looking at locum utilisation and the results had shown that A&E, AMU and Elderly care were the areas of greatest pressure and demand. It was noted that recruitment had increased over the last 6 months and that it needed to continue both in the UK and overseas, as this continued to be a key strategic risk. J Moore confirmed that absolute assurance on staffing levels couldn't be given at present but that the Trust was probably in a better place than many other trusts and a than it had been prior to the recent recruitment drive.

Delayed Transfers of Care (DTOCs) continued to be high; there was a focus on how the process was being managed including better interaction with Councils and Commissioners.

MRSA screening rates remained below the 90% target at 82.45%.

There had been five patients without confirmed treatment dates that had waited longer than 100 days from referral; all patients had now received dates.

There had been 88 operations cancelled on the day in November for non-clinical reasons; there had been no breaches to the contractual target requiring patients to have surgery within 28 days of

the cancellation of surgery.

Admissions, Discharges and Transfers (ADTs) 2 hour recording performance was 76.48% against a target of 90%; a review was underway to understand why compliance was so low.

The dementia CQUIN was a key focus for the Trust given its level of elderly care.

### ***Solihull Community contract***

The Community contract had a value of approximately £20m and was commissioned by Solihull CCG, Solihull Metropolitan Borough Council (SMBC) and NHS England for a total of 40 services. In response to a question from D Lock, J Brotherton confirmed that the Community contract was subject to the same level of scrutiny on financial performance as other services. K Bolger had met with SMBC the previous day to get a better understanding of services including those to be de-commissioned; communication with staff and the public would be difficult.

### ***NHS preparedness for a major incident***

K Bolger gave an overview of the report that described the Trust's state of readiness for a major incident. This had come following the tragic events in Paris in November 2015. Having reviewed and taken into account the content the report, the Board was assured that it was ready, to the best of its ability, to respond in the event of a major incident.

The Chair noted that delivery of the Performance Report had taken longer than allocated but it had been important that the Board had time to carefully consider the content, particularly on this first run through of this new report. .

## **16.008 CLINICAL QUALITY REPORT**

A Catto gave an update on clinical quality matters and it was noted that future clinical quality reports would be written. This month's report was exceptional in that it included updates on three recall incidents. The report covered eight areas of quality.

### ***Investigations into doctors' performance***

There were currently seven medical practitioners within the formal review process; five were predominantly conduct matters and two were capability matters. A robust process was being followed.

### ***Mortality indicators***

The Trust's HSMR at 89.7 was below the average for Midland's trusts of 92.7 and had shown a favourable downward trend; of 137 trusts the Trust was positioned at 45, the lowest position being best.

The Trust's SHMI was 97.5, which was good news. However, as previously reported, there had been some data inaccuracies between July 2014 and March 2015, which would continue to impact the SHMI measure until the historical data had worked its way through the rolling year calculation.

There had been six new condition alerts, which were based on the number re-occurring medical conditions seen at death; a review was underway and a report would be presented to a future meeting.

A Edwards referred to the mortality review undertaken by Prof Stan Silverman, questioning whether he was still involved with the Trust and the reliability of the Trust's PMS2 data; A Catto confirmed that the Board could invite Prof Silverman to re-visit the Trust at any time if it wished to do so to undertake a follow up on his previous review and gave assurance that the Trust's data was now more robust.

***Breast recall – status update***

A Catto reported that data validation had been completed. Protocols had been developed through a national MDT. The second phase of the breast recall programme had commenced with 215 patients reviewed by a virtual MDT, comprising experts from the national MDT. An external clinical provider from the private sector had been identified.

The previously proposed Royal College of Surgeons invited review had been paused pending further consideration of pan-Birmingham services.

***Urology recall – status update***

A Catto had instigated a review of Mr Manu Nair's (MN) practice by the RCS in 2014, following which a recall exercise of all MN's patients who had undergone a radical prostatectomy had been carried out. All recalled patients were seen by an external consultant and specialist nurse. A further review of MN's remaining patients was underway.

A provision of £647k had been made with expenditure to date of around £400k.

***Hip prosthesis***

In June 2015 it had become apparent that a non-approved combination of stem and head for total hip replacement had been used on some patients; it was subsequently confirmed that this applied to 57 patients. A root cause analysis was instigated and was ongoing. After initial reluctance the stem manufacturer had undertaken tests of the combination and concluded there was no evidence of likely harm for patients; the conclusions of additional expert opinions were imminent.

***Incident form backlog***

A Catto advised that at June 2015 there had been around 5,000 incidents on the Datix system reported as not being closed. The timeline for review of incidents was 7 days from reporting for initial review and 28 days from reporting to close; breach of either limit defines a backlog. A review by the central governance team had shown that clinical teams had not been completing investigations to close the incidents in a timely manner. The vast majority of the backlog related to no or low harm matters. The Trust typically sees around 370 new incidents reported a week. Progress in closing cases had been made with 1,258 incidents open at the beginning of January.

Lessons learned included the need for better training in the use of Datix, more effective monitoring of backlogs, medical and nursing leadership to strengthen accountability and better local governance support.

J Moore explained that the new leadership team had identified governance as a priority area and that a significant backlog of incidents was unacceptable.

***Incident reporting rates***

The Trust reported 5,041 incidents in Q2 2015 of which around 76% resulted in no harm. The Board noted that increased reporting was to be encouraged, together with the learning that this could bring.

***Endoscopy strategy***

The Board noted the need to improve the Trust's Endoscopy service, particularly at the Heartlands site. A business case was being prepared.

**16.009 CARE QUALITY REPORT**

S Foster referred to the pre-circulated report that summarised the Trust's performance against national quality indicators and targets, including those set out in Monitor's Risk Assessment Framework, and local priorities.

Infection control was on track and remained within trajectory for C.diff; there had been two cases of Trust-attributable MRSA bacteraemia year to date. Whilst performance was strong the Trust needed to ensure that it remained focussed on ensuring compliance; A Hussain, the Director of Infection Performance and Control, was looking ways to improve performance that included a no complacency attitude.

Work around Patient Experience and the Friends and Family Test (FFT) continued. A&E and Maternity were the current areas of focus for improvement. Following the external review of the complaints process, work was being done to improve recording, grading and responses to complaints; it was anticipated that an improvement in the closure of complaints cases within 25 working days would be seen over the coming months.

Harm was measured through the National Safety Thermometer. The Trust's positive performance in reducing falls had continued within the agreed trajectory. The performance for reduction of Grade 2 pressure ulcers continued to improve within the agreed trajectory; reduction of Grade 3 pressure ulcers was more challenging with 39 year to date against the agreed target of 29. Various initiatives had been implemented in quarter 3 with the aim of focused improvement.

There was a further discussion around DTOCs; it was noted that the Trust had been found to be responsible for around 15% but that this equated to less than 2% of Occupied Bed Days. It was noted that collaborative working with colleagues from across the healthcare system on Jonah rounds had resulted in significant improvements.

Nurse staffing levels were monitored daily by site with the Chief Nurse overseeing activity weekly and monthly; key hot spots were theatre and the Emergency Department. Weekly UNIFY submissions were published on the Trust's website. The most significant challenge for safer nurse staffing was reducing the number of vacancies for registered nurses and midwives across the Trust; there were currently 156 vacancies but there were 41 planned starters over December-January. Focused overseas recruitment was being scoped, in particular Romania, but 300 Pilipino nurses had been blocked from working at the Royal Wolverhampton NHS Trust because of the need to pass English tests, which was an example of the challenges encountered.

CQUINS targets for Q2 were delivered; Q3 & 4 performance was at risk and would be discussed at the upcoming Chief Executive's Group meeting; priorities included dementia & delirium, sepsis and acute kidney injury with the need for ownership at divisional level. J Brotherton noted that the CQUIN with the highest value at risk was Ambulatory Emergency Care.

***Q3 Compliance and Assurance Report***

S Foster referred to the pre-circulated report that was designed to give assurance to the Board regarding internal and external compliance.

Reviews had continued by Safety & Governance using the Trust's quality review tool that was based on the CQC Regulations and Key Lines of Enquiry. A new programme of Board Unannounced Governance Visits had commenced in December 2015, these had replaced the former 'Patient Safety Visits'; the aim of the new programme was to give the Board further assurance.

The Trust had achieved 97% compliance against the NICE Technology Appraisal (TA), which was well understood by clinicians; the two exceptions were noted and would be monitored by the Clinical Effectiveness Group. The Trust had a process in place to implement, review and record decisions where recommendations had not been met.

### ***Actions from CQC Inspection***

S Foster reported on progress against the action plan that had been put in place following the CQC inspection in December 2014 and noted that monthly update reports were required against incomplete actions; where no movement occurs the matter is escalated to the lead Executive Director.

## **16.010 FINANCE REPORT**

J Miller, Interim Finance Director, presented the report for the period ending November 2015 (M8). The Trust had reported an I&E deficit of £5.4m in M8 leading to a cumulative deficit of £45.9m for the year to date (YTD); this represented an adverse variance of £38.5m against the planned deficit of £7.4m YTD with the main variances being Medical staffing (£10.0m), Nursing staffing (£7.7m) and unachieved CIP – 2015/16 (£7.8m) and prior years (£11.3m) – totalling (£19.1m).

The Trust was pursuing a financial recovery process supported by Ernst & Young (EY). Short term measures (enhanced controls) had reduced the monthly run-rate from an average of £7.1m per month in Q2 to an average of around £5.0m per month in Q3. However the easy wins had largely been delivered and a longer term plan would be required to tackle the residual deficit. The latest year end forecast was projecting a deficit of between £53.0m (best case) and £64.0m (worst case), dependent upon the extent to which recovery schemes delivered. There was further risk associated with winter pressures; a balance would need to be struck between performance and finance over the next few months. Activity had been above plan in November including increases in A&E attendances by 4%, emergency admissions by 3.9%, electives by 11.6% and outpatient attendances had increase by 7.3%. All points of delivery were on or above plan YTD. NHS clinical income was £10.3m above plan, although payment challenges had been issued by the CCG totalling a similar value; J Moore suggested that around one third of this might be a reasonable challenge. CIP delivery for the current year stood at 69% to M8 with slippage of around £5.0m (20%) projected by year end. Around one third of identified savings had been delivered non-recurrently for which replacement schemes would need to be identified in 2016/17.

Most significantly the cash position had improved further to £50.3m, but remained £21.6m below plan. This reflected improved working capital management including enhanced debtor collection and creditor stretch. The scope for further working capital improvement was now limited, going forward cash was likely to mirror the income and expenditure (I&E) trend. The latest forecast indicated a balance of between £15.1m and £23.0m at year end, dependent upon the I&E deficit. The Trust's Financial Sustainability Risk Rating had now fallen to 1 (the lowest possible rating).

In response to a question from the Chair, J Miller explained that the CIP slippage was a NHS-wide problem for providers; the Trust wasn't an outlier but the 2015/16 plan had been unrealistic. It was further noted that financial planning for the year had been unrealistic and this had been exacerbated by previous years' under-delivery of CIP and issues around controls.

J Miller confirmed that Monitor was being kept up to date on regular conference calls.

In response to a question from A Edwards, J Moore suggested that it might take two years to get back to surplus but this was dependent upon identifying and delivering measures to achieve this.



## 16.011 OPERATIONAL STRUCTURES

K Bolger reported that a review had been undertaken that included operational structures. Staff had been unclear for some time on their reporting lines; clarity was required. It was proposed to revise structures by the end of January 2016. The revisions revolved around aligning structures rather than wholesale change; the ultimate target was stabilisation of the organisation.

There was a discussion around the communications process. It was explained that the senior teams would be briefed first and the messages would then be cascaded quickly through the divisions.

## 16.012 BOARD STRUCTURES

The Chair referred to the pre-circulated paper. Following a Board development session lead by the Good Governance Institute (GGI) in December 2015 it was proposed to simplify Board structures to improve clear lines of sight and shift the focus of Non-executive Directors to a more strategic level. The role of the Quality Committee was to be re-focussed to one of supporting and providing continuity for the Board in relation to its responsibility for ensuring that the care provided by the Trust was of an appropriate quality; it was intended that this Committee would meet on a bi-monthly basis and the membership would consist of all the Non-Executive Directors, including the Chair, the Chief Executive, the Medical Director, the Chief Nurse and the Director of Operations. Other officers of the Trust, including members of the Executive Team, would be invited to attend the Quality Committee as and when required.

It was further recommended that the Appointments Committee was amalgamated into the Nominations Committee, the membership of which would be all of the Non-Executive Directors, including the Chair, and the Chief Executive; the revised terms of reference were included in the pack.

There were no immediate plans to disestablish the following Board Committees:

- Audit Committee
- Donated Funds Committee
- Monitor Standing Committee
- Remuneration Committee

The membership of the above committees would be revised as set out with immediate effect. The Chair would ensure all statutory items were brought to Board and would be timetabled into the annual cycle. A review of the new arrangements would be undertaken after six months.

In response to a question from S Foster as to whether the Council of Governor Committee's committees would be reviewed, the Chair advised that Governor committees were slightly different and although she would be looking at these committees, some were of considerable value to the Trust.

After due consideration all of the recommendations, as set out in the pre-circulated paper, were approved.

## 16.013 BOARD ASSURANCE FRAMEWORK & RISK REGISTER

The report was taken as read. S Foster explained that the Board Assurance Framework had been evolving over time and was now more reflective of the views of the Directors. It continued to be a working document and work on the corporate risk register would enable its integration to ensure that operational risks were appropriately recorded and reflected.

## 16.014 ANNUAL SAFEGUARDING REPORT

S Foster presented the pre-circulated report and commented on the Birmingham and Solihull Safeguarding Children Boards' reports providing context to the safeguarding activities of the Trust.

The Trust saw and treated over 132,000 children under the age of 16. There was an established Specialist Safeguarding Team that reported to the Executive Lead for Safeguard (the Chief Nurse) and internal governance procedures oversaw the effectiveness of safeguarding arrangements within the Trust. The Trust reviewed compliance with the CQC safeguarding regulations and Section 11 quarterly. External scrutiny of safeguarding standards was through the CCG's, LSCB'S, the CQC and Monitor. In light of growing demand and new ways of working the Trust had undertaken a capacity review of specialist safeguarding resource including Multi-agency Safeguarding Hubs (MASH).

There was a discussion regarding the Trust's role and whether it should be taking a more externally focussed leadership role in relation to children safeguarding. It was acknowledged that the Trust could contemplate a more involved role over time.

## 16.015 BOARD COMMITTEE MINUTES AND REPORTS

### **Audit Committee**

K Smith presented the pre-circulated minutes on behalf of A Lord and confirmed a significant part of the Committee's activity in recent months had been adjusting the work plan of the Committee and Internal Audit, to reflect the changed risk arising from the Trust's deteriorating financial position. The Committee also continued to monitor remediation activities from previous Internal Audit reviews and receive reports on recently completed Internal Audit reviews, such as cash management, income and debtors, and payments and creditors.

### **Donated Funds Committee**

The Committee had met on the 20 November 2015; the minutes were received.

### **Monitor Standing Committee**

The Committee had met on 29 October 2015 to approve the Monitor quarter 2 return; the minutes were received.

## 16.016 POLICIES FOR APPROVAL

A Catto presented the Consultant and SAS job planning policy and procedure. D Rosser explained that he had some reservations and it was agreed to defer consideration of the policy and procedure to the next meeting.

**16.017 DATE OF NEXT MEETING**

2 March 2016 in the Harry Hollier Lecture Theatre, Partnership Learning Centre, Good Hope Hospital.

*The Board resolved "That representatives of the press and other members of the public be excluded from the remainder of this meeting having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest."*

**PART TWO**

**16.021 ANY OTHER BUSINESS**

There being no further business the meeting closed.

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**Chair**