

BOARD OF DIRECTORS

Minutes of the Meeting of 24 January 2008
Board Room, Trust HQ, QEMC

Present: Sir Albert Bore, (Chairman)
Ms Julie Moore, (Chief Executive)
Mr Tim Jones, Chief Operating Officer (“COO”)
Ms Clare Robinson, non Executive Director (“CR”)
Prof Michael Sheppard, non-Executive Director (“MS”)
Mr Tony Huq non-executive Director (“TH”)
Mrs Kay Fawcett, Chief Nurse (“CN”)
Mrs Caroline Wigley, Director of Organisation Development (“DOD”)
Rt Revd Mark Santer, Vice Chair (“MSa”)
Mr Stewart Dobson, non-executive Director (“SD”)

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

D08/01 Welcome and Apologies for Absence

The Chairman welcomed everyone present to the meeting and in particular welcomed Kay Fawcett at her first meeting of the Board of Directors since taking up her appointment as Chief Nurse.

Apologies were received from Mr Mike Sexton, Dr David Rosser and Professor David Bailey.

D08/02 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.

D08/03 Minutes of the previous meeting

The minutes of the previous meeting were accepted as a true record.

D08/04 Matters Arising

D07/259 – The Chairman reported that Stewart Dobson had now been appointed as Chair of the Audit Committee and had chaired the meeting of that Committee on 10 January. Professor Michael Sheppard had been appointed as the third non-executive director on the Investment Committee.

D07/284 – The Chief Executive confirmed that a meeting between members of Consort's board, the Chairman, the New Hospital Project Director and herself had now been arranged.

D07/285 – The Chief Executive confirmed that a meeting between 5 members of the Board of Directors and the board of West Midlands Ambulance Service NHS Trust had now been arranged.

D08/05 Actions List

The Actions List was reviewed and updated. It was agreed that additional actions from the previous meeting should be added regarding review of provisions and stakeholder engagement.

ACTION: DCA

D08/06 Chairman's Report

The Chairman reported that by-elections for the Governors for the Perry Barr and Sutton Coldfield areas of the public constituency were now well under way. Eleven members had nominated themselves to be elected as Governors, split roughly evenly between the two seats. Ballot papers would be sent out shortly with the intention that the new Governors be elected in time for the next meeting of the Board of Governors. The Chairman also reported that the Director of Corporate Affairs had now served notice on the Trust's membership database manager and that new arrangements will be put in place following the expiry of the six month notice period.

He further reported that the Trust would be receiving a visit from the Chief Operating Officer of Monitor, Stephen Hay, who would be meeting the Board of Directors at their Board Seminar on 11 March. He would also be meeting with the Chair, the Chief Executive, Director of Corporate Affairs and then receiving a briefing from the New Hospital Project Director, touring the hospital and having a look at the new hospital construction site.

D08/07 Emerging Issues Review

The Chairman explained that the Board would, in the near future, need to consider in more detail some of the issues relating to the Retained Estate. At present, some work was being done in relation to the restrictive covenants that still affected the site with particular regard to the covenant restricting research on the site to a total of

10% of the gross internal area of the entire site. A meeting between the Chairman, the Chief Executive and the New Hospital Project Director and Calthorpe had now been set up as had a meeting with AWM.

Resolved: To approve the report

D08/08 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.

The project team had been restructured to reflect the current mix of activity within the project. As the structure had previously been approved by the Board, these changes were included in the report.

The Department of Health's private finance unit was reviewing its guidance for variations to PFI projects in excess of £2m and the Trust was working with the PFU in relation to this guidance.

The NHPD clarified that the variation related to the link bridge was to delay the link bridge rather than omitting it from the project. The delay was to ensure that the final link bridge reflects the outcome of the Trust's final intentions for the use of the retained estate. The NHPD also confirmed that, despite not having received any formal written confirmation that the delay claim referred to in the report had been received, she had other assurances that this claim had been withdrawn and was thus not overly concerned about the lack of formal written notification.

The Trust was still in the final stage of evaluating bids to complete the construction of the Leaning Hub. At this stage it had become apparent that a minimum additional amount of £88,000 capital would be required to complete the building. However it is very likely that other items would be discovered as the completion work took place and therefore in order to be able to award a contract to a new contractor the NHPD was seeking the Board's consent to increasing the capital amount attributable to this project by a figure of £150,000, this being the sum of the £88,000 referred to plus a further £62,000 to provide sufficient head room for additional items. The bond from the original Sapcotes contract was £187,000 and this additional amount was required to meet costs above that. The NHPD explained to the Board that at the time of Sapcotes going into administration, the Trust was holding a retention of approximately £30,000 and had not paid one invoice of approximately £20,000. There remains a risk that the Administrator of Sapcotes may attempt to claim these monies from the Trust although there has been no indication of this so far. The Administrator would be put on notice of a potential claim for the Trust for breach of contract, although it was unlikely that a significant amount will be recovered in order to reduce the increase to capital

amount referred to earlier.

Resolved: To approve the increase of the capital amount allocated to the Learning Hub by

- i) £88,000 to allow the contract to the new contractor to be awarded; and**
- ii) up to a further £62,000 to allow sufficient headroom for completion of the project.**

With regard to the future plans for the Selly Oak site, Birmingham City Council were now close to finalising their draft planning guidance before it went out to consultation. The Trust's advisers and the New Hospital Project Director were now working with the Council to try and resolve outstanding issues regarding built heritage and sports provision but it was felt that they were close to agreement on these issues. In particular, the Council have now agreed that there would be no blanket tree preservation order over the entire site. In return, the Trust had agreed to consult with the Council before removing any trees. The most significant issue as regards built heritage related to the retention of buildings where conversion of such buildings was not practical. Agreement had been reached on most of the buildings that the parties had agreed should be retained where possible with the exception of K Block. This was a large building and its structure could pose considerable challenges in relation to conversion.

There were also some issues around the retention of the existing cricket pitch, even though the present level of use did not justify such retention. Again it was hoped that an agreeable position could be reached in regard to this.

The Trust have instructed Knight Frank to advise it in relation to the marketing of the Selly Oak site. In addition, the Director of Finance had reviewed his financial forecast and the requirement for a contribution from the Selly Oak site project that had originally been included in the forecast for the years 2011/2012 could now be put back. Accordingly, Knight Frank had been instructed to advise the Trust on how it might maximise its returns from the development of the site and also how these would then match to the financial plan requirements. Discussions with the occupiers of land immediately adjacent to the Trust's Selly Oak site are underway and the Board recognises that it may be to the Trust's advantage to be able to deliver a complete package of land to a developer. Certain neighbouring occupiers had also expressed an interest in parts of the site and it was not envisaged that that at this stage there were any particular difficulties in making arrangements necessary to provide an attractive package of land to a developer. There was discussion about whether the Trust should accept the retention of certain buildings when such buildings were not capable of being listed. It was generally felt that the cooperative stance taken by the Trust with the City Council was the correct one as opposed to having unfavourable

guidance forced upon the Trust they were there to influence the shape of the guidance so that it would not hinder the development of a prospectus relating to the site. In the absence of that cooperative approach there was always the chance that other parties may seek to for example, list buildings or obtain tree preservation orders.

The New Hospital Project Director explained that she would now like to defer the Gateway review until April to allow the newly structured team to bed in.

There was some discussion about the robustness of the double running costs that were currently included in the financial plan. These had been discussed in detail in November but had then been based on the eighteen month phased takeover that was currently provided for in the project contract. It was recognised that double running costs were a key risk for the Trust and that, further work would be needed to assert an accurate forecast for these costs given that an early handover of the hospital may be possible. The Board acknowledged the significance of the double running costs risk and agreed that they would need to receive sufficient information to assure themselves that the figures included in the financial forecasts are realistic. At present however, there was insufficient clarity as to the possible shape of an early handover and therefore it is not possible to do any meaningful work on these double running costs figures at present. The Board recognised the need for the Board to continue to re-visit the double running/handover issues with regard to the non-financial aspects and that this matter was an appropriate one for detailing with a Board Seminar as soon as possible.

Resolved: To:

- 1 accept the progress reported in the report;**
- 2 agree that the gateway review be deferred until early summer 2008; and**
- 3 accept the changes made to the New Hospital Team structure.**

D08/09 Report from Audit Committee

Stewart Dobson, Chair of the Audit Committee, reported that the committee had met last on 10 January. The most significant item that had been discussed had been the Trust's relationship with Xchanging but this was due to be covered later in the meeting. Prior to the meeting, the Committee had received a training session in relation to the Governance and Assurance Framework which had given them some greater clarity with regard to that. The Committee had agreed the form of self-assessment questionnaires which had now been sent out to all members of the Committee and others and had taken a detailed look at the New Hospital Project section of the Risk Register.

Pleasing progress had been made with regard to the format of the

regular reports brought to the Committee with a focus being on the exception style reporting, thus allowing the Committee to focus on those areas that required their attention. The introduction of the use of benchmarking data had also been of considerable assistance.

SD also confirmed that the lead partner from KPMG had now been replaced by Trevor Rees who had already met the Chief Executive and was soon due to meet the Chair of the Audit Committee.

Resolved: To accept the report.

D08/10 Update - Business Partnership with Xchanging

The Director of Organisation Development presented an update report on the Xchanging/UHB payroll partnership. Although there had been a significant improvement in the performance of the University Hospital North Staffs contract the Trust was still receiving some unfavourable press coverage in the Stoke on Trent area, including a member of parliament calling for termination of the contract. It was recognised that there was a risk that UHNS may seek to make alternative contractual arrangements for its payroll although there was a new Financial Director in post at the Trust who was taking a more strategic view. The good news was that the contract had been stabilised.

The DOD reported that she had also been informed that there was a possibility that the Trusts in the Birmingham area would go out to tender for their payroll and that there was a need for the Xchanging staff involved in the partnership to become more customer responsive. Xchanging were now carrying out a realignment exercise over six months which was a strategic level response. However, their attention to the day to day management of the bureau still needed to improve. The Trust will be carrying out a full appraisal of its options in relation to the future direction of the partnership in the March Board meeting. SD reported that, when the Audit Committee had discussed this matter on 10 January, they had received a fairly negative account from the internal auditor regarding the perceived failure of Xchanging to implement several important recommendations. The DOD confirmed that Xchanging had provided a response to the internal auditors' report immediately prior to that meeting, although she was concerned that their responses were still not sufficient to give the internal auditors comfort that underlying issues of system control were now being dealt with. It was also felt that it was very disappointing that the Trust are now having to put considerable time and effort into generating improvements for the performance of these contracts.

Resolved:

- 1 to receive the report on the present situation; and**
- 2 to accept that an option appraisal on the future**

direction of the partnership will be brought to the March meeting of the Board of Directors.

ACTION:DOD

D08/11 Corporate Performance Quarter 3 2007/08

The Director of Planning and Performance presented a report on the progress on the Medium Term Plan for Quarter 3 of the current year. The report had been re-formatted to provide greater clarity. It was recognised that there was still a need for certain milestones to be more focussed on delivering outcomes. The DPP said that he had recognised that further work was to be done in this area and that the Medium Term Plan for the following financial year would contain milestones that were more focussed and measurable.

Resolved:

- 1 to accept the contents of this report; and**
- 2 to agree to issue future reports on an exceptions basis.**

D08/12 Key Performance Indicators Report & Quarterly Governance Declaration

The Director of Planning and Performance presented the monthly performance indicator report. As explained at the previous month's meeting, the Trust had already missed its target for MRSA for the year, although a significant reduction in the number of MRSA cases had been achieved. The C. Diff target had been met, although the number of cases was still comparatively high.

The proportion of patients being seen within 18 weeks continues to rise slowly and diagnostic waits have continued to improve. The Department of Health now appears to have accepted that referring Trusts which cause or contribute to a breach of this target will need to accept some responsibility for such a breach although this will not be implemented until the following financial year.

The Trust's performance in relation to thrombolysis improved over the last month so that the target of 68% is now being achieved. However the small numbers involved (2 in January so far, both dealt with within the target time) mean that there remains a risk that this target could be missed by the end of the year.

Information about the Trust's internal target for outpatient cancellations was included in the report. New appointment cancellation rates had improved, although follow-up cancellations had increased. The Board had received a full report on this matter in December and action plans were being implemented with the objective of achieving a rate of 5% for new appointments and 7.5% for follow-up appointments by the end of the financial year. The Board recognised that the appointments process should be focussed on the

needs of patients.

The Board considered the quarterly governance declaration to Monitor which was to be made in line with the compliance framework for Foundation Trusts. It was noted that the Trust was not able to report full compliance due to the failure to reach the MRSA target, the risk that the thrombolysis target may not be met and the risk that the 18 week referral to treatment target may not be met.

The contents of the declaration were discussed and it was agreed that the declaration should make reference to the Trust's endeavours to learn from other Trusts with respect of Infection Control and to indicate that many measures referred to in the declaration have not yet all had time to impact on the Trust's performance.

Resolved:

- 1 to accept the report on progress made towards achieving performance targets and associated actions;**
- 2 to agree that the governance declaration, as amended, should be signed and submitted on behalf of the board; and**
- 3 to note that this is likely to result in the trust continuing to be rated as Amber for governance by Monitor.**

D08/13 Monthly Finance and Activity Report

Julian Miller, Head of Financial Management & Planning, in the absence of the Director of Finance, presented the Finance and Activity Report. He confirmed that it had been another strong month for financial performance. The end of year forecast of the income/expenditure position has now been revised to a surplus of £200,000 after planned provision for future transition costs relating to the New Hospital. Mr Miller was also able to report that the operational income and expenditure position had achieved practically a balanced position and the Board agreed that this significant achievement together with that of achieving an excellent performance on cumulative cost improvement plans should be noted.

Resolved: to accept the report

D08/14 Clinical Quality Monitoring Report

In the absence of the Medical Director, the Chief Executive presented the Clinical Quality Monitoring Report. The Chief Executive explained that this month's report was fairly short due to Dr Rosser's absence and that he will be bringing a fuller report next month.

Resolved: to accept the report

D08/15 Report on Infection Control

The Chief Nurse presented the monthly Infection Control Report. She explained that this month's report had adopted the format used by the previous Acting Chief Nurse but that the Chief Nurse expected to change the format of the report in the months coming and that she will be working with the Director of Infection and Prevention Control to reconfigure the report so that it was more focussed on clinical issues.

She confirmed that the Trust had experienced two further MRSA bacteraemia so far in January, bringing the total to date to 60. Although this meant that the national target for reduction had not been hit, the Trust had still achieved a year to date reduction of 29%. The MRSA cohort ward was functioning well and it had been noted that the current colonisation "load" of MRSA had fallen significantly, although it was too early to say whether this was as a result of the cohort ward or other measures. Further work needed to be undertaken to identify the source of MRSA bacteraemia in order that measures could be taken to minimise importing MRSA bacteraemia into the Trust.

C.Diff rates had increased slightly in December and, although the target had been hit, it was felt that this increase was largely because of the link between C.Diff rates and Norovirus testing. The Trust currently had three cases of Norovirus on a single ward but these had been isolated.

The Chief Nurse reported that the Department of Health had carried out their follow-up visit on 22 January. The visit had gone well and been very encouraging. The team had commended the Trust for the amount of good practice and the work undertaken and it was clear to them that infection control was a high priority for the Trust. They were very pleased with the new structures implemented for infection control and felt that these reflected the priorities given to the Trust to this subject. They also thought that the link between hotel services and nursing that was being set up was valuable. They felt that the PICs system would be a useful tool in establishing antibiotic guidelines. They had identified some things that could be addressed. These included the formalised clinical audits of hand hygiene regimes, a greater uptake of High Impact Interventions across the Trust and links to and better utilisation of the IV team. These actions will be fed into the Trust's Interim Strategy.

Resolved: to accept the report.

D08/16 Litigation and Insurance Report

The Director of Corporate Affairs presented the six month Litigation and Insurance Report. He highlighted that there had been no further update on the progress of the NHS redress scheme and therefore it was unlikely to be implemented before 2009/10. Total claims activity across the Trust continues to fall and the DCA had been receiving

quarterly reports from the Legal Services Manager relating to quality and assurance policies within the legal services department which had confirmed that there were no failures to meet key quality standards.

Resolved: to accept the report.

D08/17 Appointment of Replacement Consultant Neurology

Resolved: To approve the appointment of a replacement Consultant in neurology.

D08/18 Appointment of Replacement Consultant - Accident & Emergency – this paper was withdrawn

D08/19 Appointment of Replacement Consultant Neuroradiologist

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

D08/20 Appointment of sixth Liver Surgeon

Resolved: To approve the appointment of a sixth Liver Surgeon.

D08/21 Appointment of seventh Consultant Interventional Radiologist

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

D08/22 Chairman/CEO Emergency Actions

None

D08/23 Any Other Business :

Self-Certified Declaration to Monitor re Data Protection

The Director of Corporate Affairs explained that an email had been received from Monitor, requiring Foundation Trust Chief Executives to self certify on behalf of the Board that the Board had reviewed the systems and procedures for securing personal data and confirmed that it is satisfied that these have been and remain compliant with relevant information governance guidance and the Data Protection Act 1998. This certification was required by 15 February and therefore it was felt that it should be dealt with at the present meeting in order to allow the certification to be made by the deadline.

The DCA explained that the Trust's Caldicott Guardian, the Medical

Director, and he had discussed whether there were any implications coming out of the recent high profile breaches of data protection legislation for the Trust. Both the medical director and the DCA felt that the Trust's systems and procedures for securing personal data were and had been for some time, robust and that the Trust in particular and the NHS in general had dealt with data protection issues with greater priority than perhaps in other sectors. The DCA confirmed that the Trust had a full set of information governance policies and procedures in place, that training in data protection issues was a core part of induction training and that staff involved in handling personal data were kept up to date on such issues. Incident reporting procedures were in place and were followed.

The Information Governance Working Group met every two to three months partly to receive reports on compliance with policies and procedures and, as far as the Trust is aware, there have been no material breaches in data security. There will always be minor breaches such as the loss of handover notes and the occasional case of password sharing but these were investigated and dealt with promptly whenever they occurred thus reinforcing the message to staff that data protection was an important issue. Special consideration is given to occasions where patient data needs to be taken off the Trust's premises for example, the DCA was due to meet with the Transplant Coordinators to discuss the security of patient information that they need to take with them outside office hours. The internal audit team had carried out audits looking at information security issues and were to do some additional work in this area over the next few months. Both he and the Caldicott Guardian had responsibility for data protection issues which meant that any issues in regard to this area could be brought to the Board's notice. The Trust also self-assessed itself against the Department of Health's Information Governance toolkit on an annual basis. The Director of Organisation Development reported that the Trust had identified an issue in relation to personal data relating to staff being sent on a password protected disc when the password had not been kept sufficiently secure in relation to the Xchanging payroll bureau but this issue had now been addressed. The Chief Executive added that she had sought assurance from the Medical Director when the recent high profile incidents had first come to light and he had assured her that the Trust had sufficient systems and procedures to avoid any similar instances occurring.

The Board discussed the systems and processes that were in place.

Resolved: that the Chief Executive be authorised to certify to Monitor that the Board has reviewed the Trust's systems and procedures for securing personal data and confirms that it is satisfied that these have been and remain compliant with relevant information governance guidance and the Data Protection Act 1998.

Approval of Use of Trust Seal

Prof M Sheppard and the Rt Revd Mark Santer each declared an interest in this matter

Resolved: To approve the use of the Trust seal for the execution of a Deed between the University of Birmingham and the Trust relating to a research project to be carried out at the University's Sportex building.

**D08/24 Date of Next Meeting: Thursday 28 February 2008
Board Room Trust HQ 1.00pm**