

King's College Hospital

NHS Foundation Trust

King's College Hospital NHS Foundation Trust Board of Directors

Minutes of the meeting of the Board of Directors held at 14.00 hrs on
Tuesday, 23rd October 2007 in the Dulwich Committee Room, King's College Hospital

Present:	Michael Parker (MP)	Chair
	Rita Donaghy (RD)	Non-Executive Director
	Robert Foster (RF)	Non-Executive Director
	Maxine James (MJ)	Non-Executive Director
	Malcolm Lowe-Lauri (MLL)	Chief Executive
	Michael Griffin (MG)	Executive Director of Human Resources
	Simon Taylor (ST)	Executive Director of Finance & Information Services
Non-voting Directors:	John Moxham (JM)	Executive Medical Director
	Roland Sinker (RS)	Director of Strategic Development
	Ahmad Toumadj (AT)	Director of Facilities
In attendance:	Jane Walters (JW)	Director of Corporate Affairs
	Sally Lingard (SL)	Head of Corporate Communications
FT Members/ Public	Ann Mullins	Public Governor
	Ellen Ryabov	Director of Operations, Medway NHS trust

Item	Subject	Action
07/156	Apologies Dr. Martin West, Rita Chakraborty.	
07/157	Declarations of Interest None.	
07/158	Chair's Action None.	
07/159	Minutes of the meeting held on 25th September 2007 The minutes of the meeting held on 25 th September 2007 were AGREED subject to the following amendments. <i>07/146 (p.3) – Finance Report, 4th line. Add after 'prevented' "us achieving".</i> <i>07/147 (p.3) – penultimate paragraph, last sentence. It was stressed that the growth in market share must be of the (insert) "right" prior to "type".</i>	

07/148 (p.4) - Safeguarding Children and Young People Annual Report, 3rd paragraph, 2nd bullet point – *replace* “between King’s and GSTT” and substitute “across London”

07/150 (p.5) - Joint R & D Arrangements with Guys’ and St Thomas’ NHS Foundation Trust and King’s College London – typo – change “form” to “from”.

07/160 Matters Arising

Michael Parker, Chair, drew Board Members attention to the new action tracking list at the end of the minutes and recommended that Chairs of Board of Directors’ Committees adopted a similar approach.

Actions on the list:

07/146 Finance Report regarding feeding back comments on the tariff to the Department of Health – correction responsible officers are MLL and ST not ML and JD. Add comment in the By When column – “document not yet finalised”.

07/147 Trust Strategy Update – both points completed

07/148 Safeguarding Children – update: Safeguarding Committee to develop guidance for staff on reporting cases that social services are not already aware of and report back to the Board in due course.

07/151 Update: John Moxham has emailed the Chair of the Consultants Committee and a response is awaited.

07/161 Chair & Non-Executive’s Report

The Board NOTED the Chair and Non-Executive’s Report.

The following verbal report was given by Professor Alan McGregor.

27th September, attended the Performance Committee

3rd October met with Zoe Lelliott, Strategic Development, regarding R&D

11th October attended the Performance Committee

19th October attended the Clinical Directors’ meeting

22nd October, met with John de Braux, Project Director for the AMC

07/162 Chief Executive’s Report

Malcolm Lowe-Lauri (MLL) introduced the report and provided the following additional information:

Annual Healthcheck

The results of the Annual Healthcheck had been published since the Chief Executive's Report had been circulated to the Board. A separate report would be presented by Jacqueline Docherty, however, the Chief Executive was delighted to report that the Trust had achieved a score of "excellent" for "Quality of Health Services" and a score of "good" for "Use of Resources", representing an improvement in both categories since the previous year.

Monitor Risk Rating

The Monitor Risk Rating for Quarter 2 was attached as a separate Agenda item but the Chief Executive was pleased to report that the Trust was again on track to achieve a financial risk rating of 3 and a green governance rating. The Trust was reporting compliance against all key national targets and further detail would be given by the Director of Operations and Nursing.

ARMS Assessment

MLL reported that the Trust had been formally assessed on the 27th and 28th September under Level 2 of the new Acute Risk Management Standards, the first Foundation Trust to undergo such assessment. He was delighted to report that the Trust had achieved scores of 100% across all 5 areas forming the assessment. This was a magnificent achievement and as a result of a huge amount of hard work from staff in Care groups and Corporate Departments. Success in the assessment had the added benefit of reducing by 20% the level of premium paid by the Trust to the NHS Litigation Authority.

Research and Development

2 new Deputy Directors of R&D had been appointed, Professor Anil Dhawan and Professor Tim Newton. They would be taking over some of the responsibilities of the current Director of R&D, Dr. Ernest Choy, who had been appointed part-time Director of the South London Comprehensive Research Network.

The Trust had submitted 5 full bids for NIHR programme grants together with 4 first stage bids for NIHR Research Units in a range of topic areas. The 4 first stage bids were Liver, Obesity and Nutrition, Cardio-vascular and Musculoskeletal. Each of these areas would, if successful, attract up to £1m a year in grant. Of the 4 bids, Liver looked at first sight less strong than the other 3 areas due to fewer publications in this area. JD commented that a post of Clinical Trials Co-ordinator for Liver had recently been approved.

Events and Visits

It was noted that Harriett Harman MP would now open the Camberwell Sexual Health Centre on 23rd November not 30th November as previously reported.

Modernising Medical Careers.

It was reported that of the 19 additional transitional posts, the Trust had applied for, 15 had been awarded. This was a good result and individuals would commence in post on 3rd December 2007.

The Board NOTED the Chief Executive's Report and CE Brief.

07/163 Finance Report – Month 5

Simon Taylor (ST) introduced the Finance Report which included data from month 5. The Trust's financial results indicated that King's was still on track to achieve the full year I&E surplus of £7.3m. Liquidity remained a key issue as this prevented the Trust from achieving a risk rating of more than 3 under Monitor's rules. However, the position had improved slightly during month 5.

The following key points were noted:

- An income target would be added to the chart on page 9 for future reports.
- There had been a change in the income profile of Care Groups last year at around the October/November period. In response to that, in the current financial year, the Trust was therefore setting revised income targets that had resulted in some significant changes to individual Care Group budgets as shown on page 9 of the Finance Report.
- The position on recovery of over-performance payments had improved significantly over the previous year as a result of tight management of contract payments and the application of contract penalty terms.

In response to a question by AM, ST clarified that the Trust's target was to reach a creditor payment period of 15 days by the end of the financial year. In response to a further question from RF regarding Monitor's risk rating, ST clarified that were the Trust to achieve a financial risk rating of 4 in the next financial year, under current rules this would represent an excellent rating for Use of Resources under the Healthcare Commission's Annual Healthcheck.

The Board NOTED the Month 5 finance report.

07/164 Annual Healthcheck.

JD, Deputy Chief Executive and Director of Operations and Nursing, tabled a report on the Trust's performance in the Healthcare Commission's Annual Healthcheck. The following information regarding the Trust performance for Month 5 was given ahead of this report.

The Trust had been experiencing a significant increase in overall activity, particularly in Care Groups such as Critical Care and Surgery. As a result, average length of stay in some areas had increased slightly during the month and this was also in part related to the new cohort of junior doctors coming into the Trust from 1st August 2007.

All Trust Board members would be aware of the recent Healthcare Commission report on Maidstone and Tunbridge Wells NHS Trust regarding difficulties around infection control. JD informed the Board that the Trust was currently digesting the recommendations of that report and would bring back a fuller report to the Performance Committee and the Board at their November meetings. In terms of the Trust's current position on infection control targets, she was pleased to report that in line with performance since the beginning of the financial year, the Trust remained currently under target for MRSA Bacteraemia. However, the position regarding C. Difficile was more difficult although there had been a small improvement in Month 5. Much detailed work was underway to identify root causes of infections and this information would be included in the report to the Board in November. The Trust was currently on track against all key performance targets including Cancer waiting times.

RF enquired whether the design of some of the older parts of the hospital presented a challenge in relation to provision of hand-washing facilities. JD responded that the Trust was considering installing hand-washing facilities at the entrances to wards where necessary. In addition, weekly hand-washing audits were undertaken within the Trust where a figure of less than 95% compliance has been achieved. Further consideration was also being given to Trust uniform policy in relation to changing of staff uniforms.

JD outlined the key points in the tabled report on the results of the Annual Healthcheck. As outlined in the Chief Executive's report, the Trust had achieved an excellent rating for the quality of its services and good rating for the use of resources, an improvement in position against both indicators on the previous year. Within London, 3 hospitals had achieved excellent for both quality of services and use of resources and these were, Guy's and St. Thomas's Foundation Trust, Chelsea and Westminster Foundation Trust and The Royal Marsden Foundation Trust. There were 3 other hospitals achieving excellent for quality of services and good for use of resources, which included King's, Barts and The London, and The Royal Free. There was a marked discrepancy between standards in most of the London Teaching Hospitals and DGHs in the South-East and West sectors. In particular it was noted that Bromley, Lewisham and QMS had achieved weak for use of resources and either good or fair for the quality of services.

The quality of services score was made up of 3 components - meeting core standards, existing national targets and new national targets. For the first 2 indicators, the Trust had fully met both standards and against new national targets the Trust achieved a score of excellent.

The results of the Annual Healthcheck for PCTs in the South-east area were also noted.

The Board offered their congratulations on the achievement of a significant improvement in performance during the past year to all staff involved.

07/165 Audit Committee Annual Report

RF, Vice Chair and Chair of the Audit Committee, presented the second annual report of the Audit Committee to the Board.

The following key points were noted:

- 6 meetings of the Audit Committee had been held during the year, 3 prior to Foundation Trust authorisation and 3 following authorisation. This included a meeting in July 2006 to review the Annual Accounts and recommend them to the Board for approval.
- RF had assumed Chairmanship of the Audit Committee, following the resignation of Caroline Hewitt, Vice Chair of the Trust in March 2007.
- The stronger focus on internal audit had continued during 2006/07 and the Symbiant tracker system was now well embedded within the Trust and well utilised by Managers. There was a need to consider how best to review items and ensure that these were removed from the Symbiant system as other recommendations were added.

It was noted that KPMG, the Trust's Internal Auditors undertook 435 days of audit time during the year and consideration would be given in the current year as to whether or not this level of audit needed to be maintained and how quality measures could be introduced to evaluate the impact of the work programme.

The Audit Committee had also devoted considerable time to assessing the Trust's systems for counter fraud and were satisfied that the arrangements in place were currently working well. They were also satisfied with the high level of fraud awareness amongst staff in the organisation and a strong message to all staff on actions undertaken to pursue and where necessary prosecute offenders.

Michael Parker, Chair, commended the Audit Committee Annual Report and recommended that all Committee Chairs consider the production of similar reports for their own Committees.

The Annual Audit Committee report was NOTED by the Board.

07/166 Monitor Return Quarter 2

The Chief Executive presented the Monitor Quarter 2 return for Board approval prior to submission to Monitor.

As reported previously during the meeting, the Trust had met all performance targets and could confirm compliance with its terms of authorisation. For Quarter 2, the Trust could confirm the following:

- A financial risk rating of 3
- A mandatory services rating of green
- A governance rating of green

The Board was therefore asked to approve the signing of Governance Declaration 1.

The Board formally APPROVED the signing of the Governance Declaration 1 for submission to Monitor.

07/167 Trust Insurance Arrangements

Jane Walters, Director of Corporate Affairs reported to the Board on arrangements for Trust's Directors and Officers insurance arrangements.

An earlier report to the Board in July 2006 had considered the impact of Foundation Trust status upon the Trust's Directors and Officers Insurance arrangements. At that time it had been concluded that the existing cover provided under Liability to Third Party Scheme (LTPS) from the NHS Litigation Authority was adequate both at that point in time and following authorisation as a Foundation Trust.

This view had been reinforced by the Chief Executive of the NHS Litigation Authority and the Director of the Foundation Trust Network. However, earlier this year, the Department of Health had written to indicate that the scope of Directors' and Officers' Liability cover under the LTPS would be limited to activities that would be 'relevant functions'.

Certain income generating activities that might be undertaken by Foundation Trusts might well fall outside this definition of 'relevant functions' and therefore the trust had been advised that there might now be gaps in the scope of the existing cover. In particular activities undertaken by King's Commercial Services Limited and its wholly owned subsidiary, Agnentis would fall outside the definition of relevant functions. Any exposure that members of the Board of Directors or other staff might have in respect of these activities would therefore not be covered under the existing scheme. It was noted however, that Agnentis Limited had secured separate insurances covering staff working for the company.

The Trust had obtained a quote from brokers for additional top up cover as outlined and it was recommended that an additional £10m indemnity be obtained at a premium of £12,600.

The Board APPROVED the purchase of additional insurance cover in respect of Directors' and Officers' Liability.

07/168 Grievance Procedure

Mike Griffin, Director of HR, outlined the Trust's arrangements for considering staff complaints or grievances. The provenance of the current Trust procedure dated back to 1995 when the procedure had been reviewed as part of a general review of employment procedures and the introduction of partnership working with trade unions, a change that was facilitated with the assistance of ACAS.

The procedure was designed to encourage staff to use the procedure at an early stage before problems became intractable to encourage managers to investigate and resolve issues as close to the source of the complaint as possible, to reduce the number of stages to 3 with a clear timetable and to institute a third and final stage to be held by 2 Executive Directors of the Trust.

The procedure was in line with current ACAS practice.

The procedure had been routinely reviewed and updated since its introduction. A major change in 2005 provided for the introduction of independent assessors when the complaint related to discrimination or bullying and harassment. The procedure had served the Trust and its staff well by ensuring that staff complaints were properly investigated in a timely way. Problems that were not successfully resolved through this process could be referred to an employment tribunal which was an important safeguard for staff and a significant influence on managers to resolve issues internally.

The Trust was encouraging staff to use the grievance scheme however MG emphasised that use of the procedure did not necessarily guarantee satisfaction to those using it, as the root of many grievances was often the breakdown of relationship between manager and staff member, or between team members. However, it did ensure that concerns were properly investigated and responded to in a timely manner.

Michael Parker, Chair, indicated his concern that the wording of the Grievance Procedure indicates Director involvement whereas it is only Executive Director in practice. The procedure and practice needed to be aligned.

Rita Donaghy commented that the existing policy on grievance was very good and that the process whereby Executive Directors heard stage 3 of grievance appeals was a straight forward operational role and in her view it was not the role of the non-Executive Director.

RF supported this approach, which was an approach he had mirrored in other organisations with which he was involved. He considered that the Accountable Officer was ultimately responsible for the operation of the hospital and as such it was important to avoid the potential for conflict between Non-Executive Directors and the role of the Accountable Officer.

MLL saw an inherent conflict between the independence of the non-executives and their engagement in a sensitive operational process. Maxine James (MJ) queried the wording in the grievance procedure which referred to Trust Board Level Directors not Executive Directors. She felt that NEDs could bring independence to the process. In response, MG clarified that Trust Board Directors in this context meant Executive Directors and Non-Voting Board Directors. Whilst the wording could be open to misinterpretation, its application had been consistent. It would be helpful to align the wording and the practice. MG outlined that if complainants were not currently satisfied with the independence of the process they had the opportunity to pursue their concern via external means, such as employment tribunals. Very few got as far as or succeeded at Tribunal. In addition, the Trust's trade unions were very active in supporting the complaints of their members.

A number of Executive Directors who currently heard grievance appeals indicated that they did indeed consider themselves to be independent and impartial when undertaking that role, and would overturn or modify decisions made by more junior managers as appropriate.

JD expressed the view that it was the role of the Non-Executive Directors to hold the Executive Directors to account. In her view it would be difficult for Non-Executive Directors to perform that role effectively were they to be directly involved in the operational process themselves.

MP, Chair, indicated that there was evidence of a strong skew in the numbers of disciplinary hearings related to BME staff. RD pointed out that the paper under consideration related to staff grievances not disciplinary hearings.

MP reported that he had been petitioned by councillors and by trade unions in relation to the skew in numbers of disciplinary hearings involving BME staff. The issue had been further highlighted by the Equality and Diversity Committee. MG responded that the Equality and Diversity Committee was extremely vigilant in monitoring this issue. The figures relating to disciplinary hearings were kept under active review and indeed the issue had been incorporated into the Directors' collective objectives.

MJ considered that the Board needed to feel assured that the processes in place for hearing grievances were monitored by the Board in the same way as other performance areas. Perhaps individual cases should be reviewed by the Board as part of their monitoring role. RD commented that this might compromise confidentiality of the process, were staff to be identifiable. Any such reporting process would need to ensure individual confidentiality.

It was AGREED that a paper on disciplinary hearings would be presented to the next meeting of the Board of Directors.

It was further AGREED that the wording in the Trust Grievance Procedure relating to Trust Board Level Directors should be clarified to indicate that this related to Executive and Non-Voting Directors. Subject to this clarification, the current procedure was NOTED.

The Executive Directors would consider and bring forward proposals to Board members on how the Board might monitor the application of Grievance and Disciplinary procedures.

MP indicated that these issues were likely to be raised at a Camberwell Community Council meeting on the 30th October. It was agreed that Mike Griffin, Director of Human Resources, would attend this meeting to answer any questions or points that were raised.

07/169 Information items

The Board NOTED the following:

Unconfirmed Minutes of Committee Meetings

Audit Committee – 20 Sept

Equality & Diversity Committee – 25 Sept

Performance Committee – 27 Sept

Confirmed Minutes of Committee Meetings

Performance Committee – 12 July

A Picture of Health

Project Board minutes - 27 July

Project Board update – 28 September

07/170 Any other Business

MJ commented that the recent Cultural Diversity event to celebrate Black History Month had been excellent and very well attended and she congratulated all staff involved in arranging the event.

07/171 It was resolved that the public should be excluded from the meeting whilst the remaining business was under consideration as publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be transacted.

07/172 Date of Next Meeting:

Tuesday 27th November at 2.00 pm in the Dulwich Committee Room.