

Board Committee Structure and Reporting August 2012

1. Background

A review of Board Committee structures and reporting arrangements was undertaken by Deloitte¹ between April and June 2012 and Grant Thornton² undertook Historic Due Diligence Phase 1 between July and August 2010. Both of these reviews have involved desk-top documentation reviews and 1:1 interviews with Board Members. There are also some actions required by the Board Governance Assurance Framework³ that are incorporated into the recommendations of this report.

The key focus of all these reviews is to ensure that there is a clear hierarchical reporting structure with no gaps and any duplication is minimised. It is also to ensure compliance with good practice and Monitor's Code of Governance⁴ to ensure FT-readiness.

2. Findings

2.1 Deloitte found that the current structure and governance arrangements do not always support the Board in delivering its responsibilities in an effective manner. There found a lack of clarity over certain roles and responsibilities of the key sub-committees and sub-groups and whether these provide sufficient assurance to the Board. The reporting of discussion and debate held in sub-committees should be sufficiently detailed to provide the Board with assurance on the scrutiny that has taken place and highlight the areas requiring a more focussed discussion at the Board.

2.2 A number of subgroups do not formally report into the Trust Board or a formal sub-committee of the board.

2.3 There is significant repetition between what is covered in sub-groups and committees and the Trust Board. The same information is presented with a repetition of the debate rather than receiving assurance from the discussion and debate that has previously taken place and focusing on exceptions and areas requiring further consideration

2.4 Further clarity is required between the roles of Audit Committee and Clinical Quality & Safety Committee

2.5 There is a concern that based on the challenges the Board has faced in recent times there is a tendency for the Board and sub-committees to spend more time in the operational detail.

2.6 Grant Thornton felt that the Risk Management Executive (RME) appears to combine an operational and assurance role in respect of risk. NEDs are not members of the RME and the Board needs to consider whether this arrangement provides the right balance between independence and challenge particularly with regard to the assurance functions of this group. They argued that non-clinical risk and broader governance issues should be considered by a sub-committee of the Board to ensure there is sufficient challenge and scrutiny of these issues by NEDs

2.7 Monitor's Code of Governance (A.3) and the Board Governance Assurance Framework (1.1.6) both require that the board of directors is Higgs-compliant and should include a balance of executive and non-executive directors (in particular independent non-executive directors) such that no individual or small group of individuals can dominate the board's decision-making ie at least half the Board of Directors, excluding the Chair, comprise NEDs determined by the Board to be independent

¹ Review of Board committee structure and reporting June 2012

² Stage 1 Preliminary assessment and Financial reporting procedures Report August 2012

³ Board Governance assurance Framework Department of health December 2011

⁴ The NHS Foundation Trust Code of Governance Monitor March 2010

3. Conclusion

The main findings of the three reviews (Deloitte, Grant Thornton and Board Governance Assurance Framework) do largely triangulate and the main points are captured below

3.1 Committee structure

The Trust should adopt a more hierarchical structure with five formal NED-led committees (Tier 2)

- Audit Committee
- Charitable Funds Committee
- Clinical Quality & Safety Committee
- Finance & Performance Committee.and
- Remuneration Committee

reporting into Trust Board and the Tier 3 Committees reviewed to ensure that they feed into Tier 2 sub-committees or the HEC and through to Board (see Appendix 1 for proposed structure).

The roles and responsibilities of committees should be clarified, with the key scrutiny committees being Finance & Performance (F&P) and Clinical Quality & Safety (CQ&S). All Terms of Reference have been updated to reflect changes in membership, reporting and to include the committees role in scrutiny and assurance of the respective Board Assurance and Corporate Risks (See Appendix 2). These revised Terms of Reference will need to be approved at the relevant Committees.

The Risk Management Executive (RME) under current reporting arrangements appears to combine an operational and assurance role in respect of risk. As NEDs are not members of the RME this arrangement does not provide the right balance between independence and challenge – this point was also picked up by Grant Thornton and it is suggested that RME reports into the Hospital Executive Committee (HEC) with scrutiny of relevant risks through F&P and CQ&S. The Audit Committee will continue to provide assurance on risk processes and be renamed Audit & Risk to reflect this.

Once the changes to the structure have been finalised, the membership in terms of size and composition will be reviewed to ensure effective delivery of responsibilities, following the appointment into the current NED vacancy in September 2012.

Additional Tier 3 Groups have been suggested for Marketing, Workforce and Clinical Governance to fill current gaps in reporting. It is suggested that these are chaired by the Director of Business & Enterprise, Workforce Director and Medical Director (who it is proposed will also become the Deputy Chair of the Risk Management Executive). The structure chart also shows the links between RME and the sub-committees, reflecting their role in scrutiny and assurance of the risks relevant to their committee. The existing Capital Planning Group and Information Governance Group will now report to Finance & Performance and Audit & Risk Committee respectively.

3.2 Business of Board & sub-committees

The reviews recognise that some of the changes in processes are recent and the roles of different committees is becoming clearer but stresses the need for CQ&S to focus more on strategic issues and assurance. This is also an issue for the Board which needs to focus more on forward looking and strategic agenda items, and less on the current challenge and debate on operational issues.

All committees should provide a brief paper to the Board (one page) from the Chair outlining matters discussed and decisions made. This should include any matters the committee wishes to formally report to the Board. This should also include scrutiny of the relevant Board Assurance Framework (BAF) and Corporate Risk Register (CRR) so to help limit repetition and enable the Board to focus on the key issues.

There was significant concern around the governance surrounding capital planning as there does not appear to be a consistent process for the approval of business cases. There should be training

for staff in this area and all business cases above £100k should be presented to F&P as part of the approval process.

Recognising that there is a legacy issue in relation to confidence in transparency of reporting, Deloitte expressed concern that at times challenge appears to be due to lack of trust rather than being constructive. There was also comment on the lack of Executive challenge, although in many cases the position would have been explored at HEC. They also advised that the Board needs to have more informal opportunities to spend time together to improve dynamics

All committees should adopt the same follow-up procedure as the Trust Board with timescales and responsibilities clearly documented. It is important to ensure all actions are captured.

3.3 Terms of reference and workplans

The Terms of Reference should include quoracy and minimum attendance. Best practice suggests this should be around 75-80% attendance.

All committees should produce annual workplans which could include rationale for inclusion, Director and managerial lead and frequency of reporting. It is suggested that a rolling 12 month workplan is included as a standing item on the agenda to Board/Committee agendas to assist planning for upcoming meetings with any changes/additions being considered on an ongoing basis

3.4 Agendas

Deloitte made the following observations;

Trust Board The majority of Board items should be for discussion/decision, not for information. At present the items that receive most challenge, discussion and debate tend to be operational rather than strategic. It is not uncommon for there to be items marked 'to follow' or to be 'tabled' on agendas. This is poor practice and should be limited to exceptional circumstances. Items for meetings should go out with the main papers and not marked to follow or to be tabled. The timing of papers should also allow sufficient time for consideration by members.

Finance & Performance Agendas generally cover the main areas expected but there is a need to ensure focus is not disproportionately focused on finance at the expense of performance and minutes should capture nature of discussion held and challenge provided.

Audit Committee The agenda often appears lengthy. Some administrative items could be covered periodically at F&P eg Expenditure over £100k, Debtors & Creditors. Discussion around the Board Assurance Framework and Corporate Risk Register is too detailed and loses focus instead of seeking assurance over the effectiveness of arrangements in place.

Clinical Quality & Safety Committee The agenda is lengthy and there are instances of items deferred. The action log is lengthy, considered at the end of the agenda and appears to have actions deferred over a number of months. There does not appear to be sufficient challenge on agreed actions that have not been completed to agreed timescales. This is identified as an area for significant improvement. Grant Thornton also recommend considering increasing the frequency of this meeting due to the volume of business.

Timings of committees should be reviewed to ensure compliance and self-certification requirements for SHA, and in due course, Monitor are met. Subcommittees should be scheduled to ensure an output from the most recent meeting can be presented to provide assurance and minimise repetition.

All subcommittee agendas should include as a formal item towards end of agenda 'Items for referral to the Trust Board' and all agendas should state the minimum quorum requirement at the bottom. Agendas should also contain timings as this would assist agenda management and prioritise items requiring longer discussion

3.5 Papers and reporting

Timeliness Papers for some meetings are circulated late, in some cases only being distributed a couple of working days or less in advance.

Front sheets These should contain an Executive Summary which pulls out the key themes and recommendations and any exceptions which can be supported in the report. The summary should also include assurances, key issues for noting, key decisions to make (along with any options and recommendations), rather than the background history

Quality of papers The quality of reports is deemed to be variable and inconsistent. It appears the Board has not collectively decided what it wants in terms of the level of detail and as such some reports are deemed too long and others to be lacking in detail

There needs to be a clear quality assurance process for board papers with the executive directors responsible for signing off papers before they are circulated to the Board

Key reports around finance and performance could be improved in terms of format and presentation and content – more dashboards, focus on exception reporting, with key risks, mitigations and scenarios. Grant Thornton also identified that the Board does not currently follow good practice in having an integrated performance report and dashboard so quality, operational performance, financial performance and activity are currently considered in isolation. This is also an issue in the Board Governance Assurance Framework (BGAF)

3.6 Governance

Grant Thornton have identified the need for a Senior Independent Director to be nominated and that the work of NEDs is evenly balanced

The Trust will need to draw up Terms of Reference for an Investment Committee and Nominations Committee as part of its FT preparation. These are attached at Appendix 3. The Nominations Committee will act as the main Committee for Non-Executive Director appointments. The Investment Committee will focus on the strategic investment requirements when the Trust is an FT.

Attendance at Board meetings – non-voting Corporate Directors should only attend for those sections of the agenda where they have a paper to present or at the invitation of the Chairman. This is also a requirement of the Board Governance Assurance Framework in order to be Higgs-compliant.

An action plan is attached (Appendix 4). It is suggested that progress is monitored by the Board as part of the monthly FT paper.

The Board is also asked to consider the adequacy of the operational arrangements for the monitoring of IT and Estates developments, which are currently dealt with through the Hospital Executive Committee. It is proposed that the responsibility for the scrutiny of strategic progress is undertaken through the Finance & Performance Committee.

4. Recommendations

The Board is asked to

- 4.1 **DISCUSS** this report and **APPROVE** the proposed structure (Appendix 1) and Terms of Reference (Appendix 2). These will also need to be approved at the relevant committees
- 4.2 **APPROVE** the draft Terms of reference for the FT Investment & Nominations Committees (Appendix 3)
- 4.3 **AGREE** to appoint a NED as the Senior Independent Director
- 4.4 **AGREE** that non-voting corporate directors attend the Board to present at the invitation of the Chairman
- 4.5 **APPROVE** the attached action plan (Appendix 4)
- 4.6 **DISCUSS** operational arrangements for Estates and IT management