

Cover page

Meeting	Board of Directors
Paper Title	Governance Report
Date of meeting	28 May 2020
Date paper was written	18 May 2020
Responsible Director	Director of Governance (interim)
Author	Director of Governance and Trust Board Secretary
Executive Summary	
<p>This report is the first in a series which will appear at every Public Trust Board meeting and will provide an update since the last Board meeting on matters of governance that the Board of Directors may need to be aware of.</p> <p>This report covers items of governance relating to the Trust, and items of wider national interest.</p>	
Previously considered by	Not applicable

The Board (Committee) is asked to:

<input type="checkbox"/> Approve	<input type="checkbox"/> Receive	<input checked="" type="checkbox"/> Note	<input type="checkbox"/> Take Assurance
To formally receive and discuss a report and approve its recommendations or a particular course of action	To discuss, in depth, noting the implications for the Board or Trust without formally approving it	For the intelligence of the Board without in-depth discussion required	To assure the Board that effective systems of control are in place

Link to CQC domain:

Safe

Effective

Caring

Responsive

Well-led

Link to strategic objective(s)

Select the strategic objective which this paper supports

PATIENT AND FAMILY Listening to and working with our patients and families to improve healthcare

SAFEST AND KINDEST Our patients and staff will tell us they feel safe and received kind care

HEALTHIEST HALF MILLION Working with our partners to promote 'Healthy Choices' for all our communities

LEADERSHIP Innovative and Inspiration Leadership to deliver our ambitions

OUR PEOPLE Creating a great place to work

Link to Board Assurance Framework risk(s)

Equality Impact Assessment

Stage 1 only (no negative impact identified)

Stage 2 recommended (negative impact identified and equality impact assessment attached for Board approval)

Freedom of Information Act (2000) status

This document is for full publication

This document includes FOIA exempt information

This whole document is exempt under the FOIA

Financial assessment

No

Main Paper

Situation

N/A

Background

N/A

Assessment

N/A

Recommendation

The Board of Directors is asked to note the content of this report.

Governance Report:

1.0 Trust Governance

1.1 A plethora of further guidance from NHSEI and support has been provided by various organisations and regulators with regard to Covid; with new ways of working becoming more embedded across the NHS, heralding talk of 'the new normal'. Certainly, there is learning to be had and some 'old methods of working' to be left in the past.

1.2 Responding to the announcement about the restoration of NHS services, Niall Dickson, chief executive of the NHS Confederation, which represents organisations across the healthcare sector, said: "This is the right time to resume operations and other treatments that were stopped because of Covid-19, providing it is done in a managed way. The NHS has remained open for business for critical and other urgent care and it has not been overwhelmed. But freeing up 33,000 hospital beds at pace and suspending non-urgent procedures has created a massive backlog and it will mean increased pressure on hospitals, community, GP services and social care. Starting this work again needs to be done carefully with local health leaders deciding what is best for their local communities and what can be managed. We know some staff will need downtime to recover after what they have been through. It will also be vital that all the parts of the NHS and social care at local level plan together, as what happens in one part inevitably affects another. Rebuilding services needs to take account of this. More information can be found at:

<https://www.nhsconfed.org/news/2020/04/restoration-announced>

1.3 Colleagues will have seen the letters received from Simon Stevens, CEO NHSE and Amanda Pritchard, COO, NHSE (via Nigel Lee's weekly briefings and updates for the Covid Assurance Committee) which advise on the restoration and recovery phases of NHS operational planning.

1.4 Information on the changes to Covid-19 finance reporting and approval processes as Trusts move into the second phase of the NHS response is also detailed in the weekly Covid briefing note from Mr Lee.

1.5 The Care Quality Commission have produced briefings on Covid-19 to health and social care organisations. The link to the last briefing is here for information:

<https://www.cqc.org.uk/news/stories/sharing-insight-asking-questions-encouraging-collaboration-cqc-publishes-first-insight-document-on-covid-19-pressures>

1.6 In terms of leadership, an article by Russell Reynolds Associates on Board Leadership and Performance in a Crisis is a paper that has been circulated across the Chief Executive Officers and Chairman networks of NHS organisations. This can be found here:

[file:///C:/Users/julie/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/Board%20Leadership%20and%20Performance%20in%20Crisis%20-%203-22%20\(5\).pdf](file:///C:/Users/julie/AppData/Local/Packages/Microsoft.MicrosoftEdge_8wekyb3d8bbwe/TempState/Downloads/Board%20Leadership%20and%20Performance%20in%20Crisis%20-%203-22%20(5).pdf)

1.7 At this time, it is worth remembering some of the actions the Board of Directors have already taken in order to ensure that the Trust is agile and able to address any additional new challenges in this time of Covid. For example, the Trust Board have;

reviewed their agenda to ensure meetings are focussed and papers are as streamlined as possible; that meetings have taken place virtually; that whilst members of the public have been excluded, the public are able to pose questions, read papers in advance and obtain the minutes of the meetings afterwards. The quoracy of Board of Director meetings have also been reviewed and its Committees have reviewed their terms of reference and working practices at this time of Covid.

1.8 In addition, the Board of Directors quickly established a time limited Covid Assurance Committee in order to ensure oversight of all current important issues on a week by week basis.

1.9 The Trust has reviewed its Standing Orders and Standing Financial Instructions, which are included here as part of today's agenda. Finally, the Trust is reviewing its risk management arrangements. This is in line with guidance received from internal auditors.

Items of wider national interest

2.0 NHS Hospital bed numbers: past, present and future

2.1 Originally published in September 2017 and updated last month, Leo Ewbank's original article 'Hospital bed numbers – can the downward trend continue', considers whether trends to reduce bed numbers can continue, by considering data over a 30-year period.

2.2 It is reported that general and acute care hospital beds have fallen by 34% since 1988, with the bulk of these being those for the long-term care of older people. Innovation and technology have also had an impact by reducing the time that patients spend in hospital.

2.3 However, the article looks at the increasing signs that there is now a shortage of beds, quoting a 95% occupancy rate during winter 2018/19 and increasing numbers of delayed transfers of care.

2.4 Citing levels of occupancy that mean that the "average hospital in England is at risk of being unable to effectively manage patient flow", the authors of the reports concur with the original 2020/21 Operational Plan for the NHS that reduction in bed numbers should not be expected to continue.

2.5 The article may be accessed at: <https://www.kingsfund.org.uk/publications/nhs-hospitalbed-numbers#comments-top>

2.6 The Kings Fund have also published a helpful article this month bringing together information regarding critical care services in England, and the role that critical care units play. This article may be accessed at: https://www.kingsfund.org.uk/publications/criticalcare-servicesnhs?utm_

3.0 Quality accounts 2019/20 deadline

3.1 NHSEI advise that the new Quality account deadline for 2019/20 are [now in force](#). While primary legislation continues to require providers of NHS services to prepare a quality account for each financial year, the amended regulations mean

there is no fixed deadline by which providers must publish their 2019/20 quality account. NHS England and NHS Improvement recommends for NHS providers that a revised deadline of 15 December 2020 would be appropriate, in light of pressures caused by COVID-19. Draft quality accounts should be provided to stakeholders (for 'document assurance' as required by the quality accounts regulations) in good time to allow scrutiny and comment. For finalising quality accounts by 15 December, a date of 15 October, 2020 would be reasonable for this; each Trust should agree this with their relevant stakeholders.

4.0 Use of electronic signatures

4.1 It was noted that the Law Commission considered the use of electronic signatures in September 2019 and have now confirmed that: "...an electronic signature is capable in law of being used to execute a document (including a deed) provided that "(i) the person signing the document intends to authenticate the document and (ii) any formalities relating to execution of that document are satisfied."

4.2 The Commission further stated within their review that: "An electronic signature is admissible in evidence in legal proceedings. It is admissible, for example, to prove or disprove the identity of a signatory and/or the signatory's intention to authenticate the document."

4.3 This enforced current legislation. Section 7 of the Electronic Communication Act 2000 confirmed that electronic signatures have equivalent legal effect to a handwritten signature. The Information Commissioner's Office also confirmed that electronic signatures are admissible in court.

4.4 However, the use of electronic signatures was recently raised with regard to detention paperwork completed by healthcare professionals under the Mental Health Act and Code of Practice, which is silent on the use of signatures but does confirm that computer generated forms can be used.

4.5 The legal ruling from the Law Commission in 2019 was cited as being of sufficient authority to now allow the use of electronic signatures under the Mental Health Act, which would be admissible and would not impact on the legality of documents.

4.0 The ability of staff to speak up

4.1 Further to reports across the country of healthcare professionals having been 'gagged' by their organisations for speaking up during the coronavirus pandemic, Matt Hancock, Secretary of State for Health and Social Care has confirmed that staff should feel free to speak out about issues, such as personal protective equipment shortages.

4.2 This comes following newspaper and television reports providing examples of staff, including doctors, having been 'strongly advised' by their organisations or local CCGs against speaking out about issues such as lack of essential equipment.

4.3 During a press conference, Mr Hancock advised that NHS staff “should feel free to talk about what happens at work...that transparency is important and is the sort of approach we’ve tried to take as a government.”

4.4. The Trust takes this matter seriously and continues to promote the work of the Freedom to Speak Up Guardian.

5.0 Extension of visas for health and social care workers

5.1 It has been reported that the visas of 3,000 health and social care workers – midwives, radiographers, social care workers and pharmacists – have had their visas extended by 12 months in order to support the fight against the pandemic.

5.2 This follows the extension of visas for 2,800 overseas NHS doctors, nurses and paramedics last month.

5.3 Family members of those workers cited, are also eligible under the scheme, although physiotherapists have not been included, and have urged Ministers to expand the scheme.

6.0 Apology from NHS Digital

6.1 NHS Digital has apologised to families after sending letters to 10,924 deceased patients, who had been treated for lung cancer between 2006 and 2017, advising them that they were at increased risk of COVID-19.

6.2 The error was made in a rush to contact patients most at risk and involved the use of an algorithm to identify patients for the list. The algorithm relied on data held in clinical codes and it was from this data, that the error was made.

7.0 NHS Patient Safety Strategy – update and consultation – Patient Safety Specialist

7.1 A consultation has been launched by NHSE/I asking organisations to identify, by the end of June 2020, at least one person from existing colleagues as their Patient Safety Specialist. The name(s) of such patient safety specialist(s) will be provided to the regulator so as to enable interaction between the national patient safety team and the new organisational specialist(s).

7.2 Accountability will be direct to the Executive Team, and must include no-notice access to escalate immediate risks or issues. It is therefore envisaged that the new role(s) will report directly to a member of the Executive team. It is envisaged in the guidance that potential applicants will be educated to Masters’ degree level, or have equivalent experience working at a senior level, and will have worked in a patient safety related role for at least two years.

7.3 Training for these specialists will be based on the national patient safety syllabus being developed with Health Education England.

8.0 External Visits and Inspections

8.1 Audiology National Quality Assurance Assessment (IQIPS)

The Trust received re-accreditation on 30 March 2020. The following message of congratulations was received 'Many congratulations for an excellent well evidenced assessment and it is a testament to this that you have no mandatory findings this year, with only 6 recommended findings to help quality improvement'.

8.2 Getting It Right First Time (GIRFT) Reviews

A number of reviews were planned throughout March and April, however, with the exception of a Neurology Deep Dive on 12 March, these were not able to go ahead due to Covid-19 restrictions. For those reasons, it has also not yet been possible to agree an implementation plan for the Neurology Deep Dive. Details are currently awaited from GIRFT on this, and how the outstanding visits will be managed.

8.3 Pathology United Kingdom Accreditation Service (UKAS) Assessment

A UKAS assessment visit took place in March on all aspects of the Pathology Service. Following rigorous assessments, covering Cellular Pathology, Blood Sciences and Microbiology, the Trust has retained our laboratory accreditation.

9.0 In conclusion, if colleagues would wish to receive a copy of the documents from any of the links in this report directly, please do not hesitate to contact me.

David Holden. Interim Director of Governance/ Company Secretary, 18 May 2020