

Cover page

Meeting	Board of Directors
Paper Title	Governance Report
Date of meeting	30 July 2020
Date paper was written	16 July 2020
Responsible Director	Director of Governance (interim)
Author	Director of Governance and Trust Board Secretary (interim)

Executive Summary

This report provides an update on matters of governance relating to the Trust and items of wider national interest. This report is for information. Key items include:

- NICE (The National Institute for Health and Care Excellence) began to publish non-COVID guidance at the end of June following the pause caused by the pandemic;
- The Parliamentary and Health Service Ombudsman (HMSO) have now restarted their work;
- The CQC has issued details of its intentions to consider and regulate against closed cultures, in which stakeholders may receive a poor care.

Previously considered by	Not applicable
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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:

<input type="checkbox"/> Safe	<input checked="" type="checkbox"/> Effective	<input type="checkbox"/> Caring	<input type="checkbox"/> Responsive	<input checked="" type="checkbox"/> Well-led
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Link to strategic objective(s)	<p><i>Select the strategic objective which this paper supports</i></p> <p><input type="checkbox"/> PATIENT AND FAMILY Listening to and working with our patients and families to improve healthcare</p> <p><input type="checkbox"/> SAFEST AND KINDEST Our patients and staff will tell us they feel safe and received kind care</p> <p><input type="checkbox"/> HEALTHIEST HALF MILLION Working with our partners to promote 'Healthy Choices' for all our communities</p> <p><input type="checkbox"/> LEADERSHIP Innovative and Inspiration Leadership to deliver our ambitions</p> <p><input type="checkbox"/> OUR PEOPLE Creating a great place to work</p>
Link to Board Assurance Framework risk(s)	

Equality Impact Assessment	<p><input checked="" type="radio"/> Stage 1 only (no negative impact identified)</p> <p><input type="radio"/> Stage 2 recommended (negative impact identified and equality impact assessment attached for Board approval)</p>
Freedom of Information Act (2000) status	<p><input checked="" type="radio"/> This document is for full publication</p> <p><input type="radio"/> This document includes FOIA exempt information</p> <p><input type="radio"/> This whole document is exempt under the FOIA</p>
Financial assessment	Not applicable for this paper
Recommendation	The report is for information.

1.0 Introduction – Governance Report – July 2020

1.1 This report provides an update of matters since the last board of directors meeting in public on 28th May 2020.

2.0 Complaints – The Parliamentary and Health Service Ombudsman (PHSO).

2.1 Since pausing their work on NHS complaints on 26 March 2020 to support the NHS focus of resources on tackling the pandemic, the Parliamentary and Health Service Ombudsman (HMSO) have now restarted their work, with effect from 1 July 2020.

2.2 New complaints are being accepted, as well as existing ones now being processed although the majority of PHSO staff continue to work remotely.

2.3 The PHSO is also seeking clarity on the Government's plans for an inquiry into the overall response to the pandemic.

3.0 The National Institute for Health and Care Excellence (NICE) Guidance

3.1 Moving on from the pause caused by the COVID19 pandemic and resulting diversion of healthcare resources, NICE began a phased restart of publishing its non-COVID19 guidance, and have also indicated that a timetable for future guidance and quality standards will be published imminently.

3.2 Matters described as 'non-critical' will be deferred until later in the year or to the start of 2021. However, colleagues may wish to consider the work being undertaken with regard to 'Behaviour change: digital and mobile health interventions' in response to the pandemic, which is due to be published on 7 October 2020'.

4.0 Care Quality Commission (CQC) – 'closed cultures'

4.1 The CQC have advised that their inspectors will be trained throughout the Summer 2020 on issues affecting closed cultures; these being defined as cultures likely to develop in services where; people are removed from their communities; there is weak leadership; staff lack the right skills, training or experience to support people; there is a lack of positive and open engagement between staff and with people using services and their families.

4.2 The regulator advises that the work will shape their next strategy and will improve the way that they inspect services in the future.

5.0 'Emergency Support Framework' from the CQC

5.1 The CQC announced its new 'Emergency Support Framework' (ESF) in May, 2020 which it stated, would be effective immediately during the COVID-19 pandemic and for a period afterwards.

5.2 The regulator was keen to stress that the ESF was not an inspection regime although their website advised that "the ESF is part of our regulatory approach during the COVID19 pandemic."

5.3 The framework will utilise a number of elements; using and sharing information to target support where it's needed most; Using information from their usual collection sources and increased encouragement for patients and public to provide feedback. The CQC will monitor data to recognise trends or areas where additional support may be required. Highlighting any

issues with NHSE and the Department of Health and Social Care may mean that action may be taken to provide additional support with providers.

5.4 The CQC advise that they will be having 'open and honest conversations'. The regulator will make contact with providers to have conversations (via Microsoft Teams) regarding challenges that organisations face in managing COVID-19, and to seek information regarding innovative methods of working so that these can be shared. Using existing knowledge, services that are considered a higher risk will be prioritised and contacted more often. Calls will focus on: 1) safe care and treatment, 2) staffing arrangements, 3) protection from abuse, and 4) assurance processes, monitoring and risk management.

5.5 The CQC advise they will take action to keep people safe and to protect people's human rights; Information gathered from the calls (above) will be added to the regulator's existing records relating to the provider, and will be used to support regulatory planning during and after the pandemic. In exceptional cases, the CQC may request providers to 'share' their information during the conversations should they require evidence about specific risks. Should information be received during the conversation, or from any external sources, about actual or avoidable harm, abuse, etc., the regulator may decide to inspect following existing procedures. Enforcement powers may be used.

5.6 The CQC advise that they will not publish records of their findings on their website. However, if an inspection takes place following their findings, an inspection report will be published and information shared on a national level about the decisions taken. Whilst routine inspections have been paused, the new framework allows for inspections to take place within a short time frame, where concerns exist. These may be smaller inspections but more frequent.

6.1 Our plan to rebuild: The UK Government's COVID-19 recovery strategy

6.1 On 11 May, the Government published its recovery strategy document, which contained an outline plan for a three stage phased reopening of the country, and explained that we are entering stage two of that plan, and that businesses not required to close by law can be open and that people unable to work from home should be encouraged to return to work.

6.2 Employers, who have a statutory duty to exercise all reasonably practicable steps to ensure the health, safety and wellbeing of their employees, must now ensure that workplace health and safety arrangements include arrangements that minimise the transmission of coronavirus. Failure to do so will be in breach of the statutory duty, which is a criminal offence.

6.3 The Government published guidelines to assist employers in this task. The guidelines were set out in a series of eight separate documents, each corresponding to a different workplace environment.

6.4 There was no specific guidance provided for health and care providers, although there are some aspects that may now be covered by this guideline. For example, all hospitals have a significant number of office areas, operate labs and use vehicles daily. However, the main thrust of the Government's approach was to maintain social distancing in the workplace universally. That will apply equally to healthcare staff when they are outside of the clinical environment.

7.0 New COVID-19 spending guidance

7.1 On 19 May 2020, NHS Improvement updated its COVID-19 financial reporting and approval processes; changes to revenue expenditure outlined within the guidance took place effective 1 May 2020, and changes to capital expenditure guidance became effective on 19 May.

7.2 In anticipation of a decline for a need in urgent capital expenditure, all COVID-19 cases requiring national funding will require national pre-approval, rather than retrospective approval.

7.3 Capital bids for investment in infrastructure to respond to the second phase COVID-19 requirements will need to take into account the agreed capacity plans at regional level and will require the prior agreement of the regional director of finance before they can be submitted for national consideration.

DH 16/07/20.