

Board of Directors' Meeting 11 March 2021

Agenda item	060/21			
Report	Governance Report (including recent White Paper details)			
Executive Lead	Director of Governance and Communications			
	Link to strategic pillar:		Link to CQC domain:	
	Our patients and community	√	Safe	
	Our people	√	Effective	
	Our service delivery	√	Caring	
	Our partners	√	Responsive	
	Our governance	√	Well Led	√
	Report recommendations:		Link to BAF / risk:	
	For assurance		-	
	For decision / approval		Link to risk register:	
	For review / discussion			
	For noting	√		
	For information			
	For consent			
Presented to:	-			
Dependent upon (if applicable):	-			
Executive summary:	<p>This report brings together commentary on just governance matters about which the Board should be aware.</p> <p>These are:</p> <ul style="list-style-type: none"> • Consultation on the proposal to modify condition G4 of the provider licence (relating to fit and proper persons requirements); • Highlights from the Government's white paper, <i>Integration and Innovation: Working together to improve health and social care for all</i>; and • Noting the general outcome of the March 2021 budget. <p>Also included at Annex 1, is the document, Guidance for the use of the Board Assurance Framework, which should support those who have a role in the oversight of the BAF.</p>			
Appendices	Annex 1: Guidance for the use of the Board Assurance Framework			

1.0 Introduction

- 1.1 This report highlights just three items that affect the Trust and its operation, services and governance of those matters

2.0 Formal Notice of Modification of Condition G4 on the Provider Licence

- 2.1 On Monday 22 February, NHSIE launched a statutorily required consultation regarding proposed, technical changes to Provider Licences. The consultation will close at 29 March 2021.
- 2.2 Whilst the Trust does not hold a Provider Licence per se, the condition applies to NHS Trusts by way of TDA Directions and legislation.
- 2.3 The proposed changes relate to Provider Licence condition G4 (fit and proper persons requirements.)
- 2.4 Proposed changes will have the effect of extending the scope of the fit and proper test set out in the Licence to include:
- a. qualifications, competence, skills, experience and ability to properly perform the functions of a director;
 - b. Issues of serious misconduct or mismanagement; and
 - c. disbarment in relation to safeguarding vulnerable groups and disqualification from office.
- 2.5 In addition, modification of the wording from 'shall not' to 'must not' (appoint or have in place a director who is not fit and proper), emphasises the change in stance.
- 2.6 A copy of the proposed changes, can be found in the Board's information bundle for this meeting.

3.0 Integration and Innovation: Working Together to improve health and social care for everyone

- 3.1 The publication of the Government's White Paper, *Integration and Innovation: Working together to improve health and social care for all*, was published on 11 February 2021, with the intention to implement the proposals in 2022. This timeline has been criticised by some commentators, who have highlighted the effect that the pandemic has had on NHS colleagues so far, and the significant time it will take for some organisations to catch up with the demands of waiting lists, and business as usual.
- 3.2 Three key messages arising from the proposals, which build on the Long Term Plan, are:
- a. working together to integrate care;
 - b. reduction of bureaucracy; and
 - c. improving accountability and enhancing public confidence in the health and social care sector.
- 3.3 Integrated Care Systems (ICS) will be established on a statutory footing through both 1) an 'NHS ICS board' (also including representatives from local authorities) which will be responsible for the day-to-day running of the ICS, NHS planning and allocations decisions, and 2) an 'ICS health and care partnership, which will bring together the NHS, local government and wider partners who will work in collaboration to address the health and social needs of the systems. The functions of CCGs will be

merged, together with some existing NHSE functions. It will be critical that the new statutory powers for the ICS' do not overlap with the statutory powers of trusts and NHS foundation trusts, and that there is clarity on how the 'NHS ICS board' will operate.

- 3.4 ICS will be sent a financial allocation by NHSE, and the ICS NHS Body Chief Executive will become the Accounting Officer for the funding allocated to the system. In addition, the government will have the ability to impose capital spending limits on NHS foundation trusts, as it currently does now with NHS trusts, and to set legally-binding Capital Department Expenditure Limits for individual, named NHS foundation trusts which do not prioritise capital expenditure within their ICS.
- 3.5 There will be a duty to collaborate, and legislation will be amended to assist organisations by enabling decisions to be taken by joint committees.
- 3.6 New powers and duties are proposed for the Secretary of State for Health and Social Care, including the ability to intervene in service reconfiguration changes at any point without referral from local authorities, and the ability to create new Trusts.
- 3.7 A copy of the White Paper can be found in the Board's information bundle for this meeting.

4.0 March 2021 Budget Outcomes

- 4.1 The proposals arising from the budget on 3 March 2021, were inevitably focussed on supporting people, families and businesses.
- 4.2 The Government's plan for recovery focussed on:
 - Continuing COVID-19 support
 - Fixing the public finances
 - Rebuilding the future UK economy.
- 4.3 Given the accelerated rollout of the vaccine, it was anticipated that public health restrictions will be removed earlier than had been indicated in the November Spending Review. Consequently GDP is expected to grow by 4% in 2021, and be back to pre-pandemic levels by mid-2022.
- 4.4 However, there was little to determine the strategic direction for public services, and the budget lacked specific direction and details of much needed support for social care services and the NHS. Continuing support re COVID-19 with an additional £1.65bn going to support the UK's vaccination programme, was highlighted.

5.0 Guidance for the use of the Board Assurance Framework

- 5.1 Attached at Annex 1 for information, is provided a copy of a document which had been requested and presented to the last Audit and Risk Assurance Committee, in order to clarify the roles of those involved in the oversight of the BAF.

Anna Milanec
Director of Governance and Communications
March 2021

Annex 1

Guidance for the use of the Board Assurance Framework (document)

Definition:

The BAF definition adopted by the Governance, Assurance & Risk Network (GARNet): 'the key source of information that links the strategic objectives to risk and assurance'.

The role of the BAF:

The Trust's Board Assurance Framework is based upon the identification of the Trust's strategic goals/objectives, the principal risks to delivering them, the key controls to minimise these risks, with the key assurances of these controls identified. These are monitored by the Board of Directors to resolve issues or concerns and to improve control mechanisms.

The role of the Board (1):

The board should set its strategic goals/objectives and identify potential risks to delivery of those goals/objectives.

The board will also set the risk appetite for the organisation.

The role of executive directors / management:

The executive directors / management should populate the BAF document with details of assurances and controls which mitigate the identified risks to delivery of the strategy. They are responsible for ensuring that there are no omissions from the controls highlighted, or, clearly identify the gaps in control. Action plans will need to be in place to cover the gaps in controls and assurances, which will be highlighted on the BAF document with timelines for completion. The executive director will propose the inherent risk scores (before mitigation) and the residual risk scores (after mitigation / assurance) based upon the agreed risk appetite.

The role of the assurance committees:

Each committee will receive a number of BAF risks which have been allocated to it, usually on a quarterly basis.

The committee will review the BAF risks to ensure that the main inherent and residual risks to the delivery of the Trust's strategy (for which the committee is responsible), have been identified. The committee should consider whether the controls are working effectively and that agreed actions for improvement, where gaps have been identified, are being implemented. Risk scores provided by the executive director may be challenged by the committee if the level of assurance is not sufficient. Any proposed changes to risk scoring should be reported to the Director of Governance, with details for the proposed changes, so that this can then be incorporated into the report for the ARAC.

The role of ARAC:

ARAC may receive a number of risks specifically allocated to it.

However, the ARAC will receive the 'full' BAF, which includes the BAF risks overseen by the other committees, on a quarterly basis. The ARAC should consider whether the controls are working effectively and that agreed actions for improvement, where gaps have been identified, are being implemented. Risk scores provided by the other committees against their allocated BAF risks may be challenged by the ARAC if the level of assurance is not deemed sufficient. Any proposed changes to risk scoring should be reported to the Director of Governance, with details for the proposed changes, so that this can then be incorporated into a quarterly report for the Board of Directors, seeking approval for the recommendations provided by ARAC.

The role of the Board (2):

The Board will review the recommendations provided by ARAC, based upon the assurance received by ARAC that the strategic risks have been properly identified, that appropriate mitigations have been put in place, and that the appropriate risk appetite has been applied. The BAF risk scores will be approved by the Board after review of the document.