MEETING OF THE BOARD OF DIRECTORS OF THE ROYAL DEVON AND EXETER NHS FOUNDATION TRUST

27 March 2013
Held at Cardinal Newman House, Wonford Road, Exeter

MINUTES

PRESENT:

Mr J Brent Chairman
Mr B Aird Vice-Chairman
Mr M Cooper Joint Medical Director
Mr P Knott Non-Executive Director
Ms L Lane Director of Human Resources
Dr V Lewis Joint Medical Director
Mrs A Pedder Chief Executive
Mr D Robertson Non-Executive Director
Ms M Romaine Non-Executive Director
Mrs S Tracey Director of Finance and Business Development
Mrs E Wilkinson-Brice Chief Nurse/Executive Director of Service Delivery
Mr A Willis Non-Executive Director
Mr D Wright Senior Independent Director

IN ATTENDANCE:

Ms T Cottam Director of Transformation
Mr J Chinnock Divisional Manager for Corporate Affairs and Communications
Mr A Charles Interim Corporate Affairs Service Manager
Miss B Coates Executive Office Manager

24.13  CHAIRMAN’S OPENING REMARKS

The Chairman welcomed everyone to the meeting including members of the public, which included a delegation of Staff Side Union members and Governors. The Chairman reminded attendees that it was a meeting of the Board held in public and not a public meeting. He informed the members of the public that there would be the opportunity to ask questions at the end of the meeting, with a limit of two per person, given the large number of people present. The Chairman added that Mr Paul Andrews, Chair of Staff Side, would be addressing the meeting at the start of Item 7.2.

The Chairman informed the meeting that Mrs Lane was attending her last meeting as Director of Human Resources before leaving the Trust. He thanked Mrs Lane, who had been at the Trust since 2006, for her commitment to the Trust and passed on the best wishes of himself and the Board. It was also the last Board meeting for Mr Knott and the Chairman thanked him for his work during the short period he sat on the Board.

The Chairman said that the Board had met that morning and had discussed
the Trust’s *Frail Older People Project*. This is a major focus for the Trust and one of its very important patient groups. The Board had also discussed the feedback from the Autumn *Members Say!* Event and received an update on the PricewaterhouseCoopers’ (PwC) report on the discussions about working together with Taunton & Somerset NHS Foundation Trust. The Chairman outlined the agenda for the confidential meeting of the Board that would follow the public agenda, saying that the Board would discuss the revaluation of land and buildings and the transfer of services into the Trust.

### 25.13 APOLOLOGIES

No apologies had been received.

### 26.13 DECLARATION OF INTERESTS

No new declarations were received.

### 27.13 MINUTES OF THE LAST MEETING

The Minutes of the meeting held 27 February 2013 were agreed as a correct record, subject to the following amendment:

20.13 – p6, last sentence, first paragraph should read ‘He explained that this means that when assets are transferred to an acquiring trust there will be no fair value adjustment and on subsequent revaluation the asset value may have to be written down in the books of the recipient’

### 28.13 MATTERS ARISING AND BOARD ACTION SUMMARY CHECK

88.12 – action complete as on the meeting agenda  
06.13/07.13 – action complete as the letter of thanks had been sent  
18.13 – the target date was brought forward to July as the Governance Committee will complete their work in June.  
21.13 – the amendment to the Charity Sub-Committee Terms of Reference had been made.

### 29.13 CHIEF EXECUTIVE’S VERBAL REPORT

Mrs Pedder brought the following to the Board’s attention:

1) The Devon Clinical Commissioning Group (CCG) has received its licence to operate from 1 April 2013.  
2) As part of the new Health & Social Care Act, Terms of Authorisation are being replaced by licences. Monitor has recently issued the Trust’s licence to operate without condition from 1 April 2013.  
3) The Trust has been nominated for the CHKS Quality of Care Award. CHKS is a healthcare improvement organisation and their Quality of Care Award is based on 12 indicators and looks at performance across the year 2012. The RD&E is on a shortlist of five, with the award ceremony at the end of April.

### 30.13 BUDGET 2013/14 PROPOSAL

Mrs Tracey introduced her budget paper. The budget planning had been ongoing for several months and the paper contained the details of the provisional
The provisional budget will continue to be worked on prior to the submission of the Annual Plan to Monitor in May. The financial environment was very challenging and the Trust needed to identify £17 million recurring cost reduction in the next year. This was a challenging target addition to similar sums having been generated in each of the last 3 years. It was anticipated the same level of cost reduction would be required for the next 5-7 years. Cumulatively, this could amount to a significant impact on the Trust’s current operating budget.

Mrs Tracey pointed out the key issues. In 2012/13 the Trust submitted an Annual Plan with a £3.5m surplus for that year and the subsequent two financial years. Each year the Annual Plan was reviewed to take account of changes that had occurred. The revised Annual Plan would be completed by 31st May 2013 but an operating budget needed to be in place from 1st April. Key risks for 2013/14 included increasing level of demand beyond what the commissioners could afford and starting the financial year 2013/14 with £5m of the Cost Improvement Programme (CIP) not yet identified. Work had been undertaken to identify mitigation measures for the risks and as a result the provisional budget, for 2013/14 only, would be to revise the Annual Plan to a £2.5m deficit. As the surplus is invested in the capital programme, this will impact upon both the capital programme and the Trust’s cash position.

In summary, Mrs Tracey said that the Board was asked to agree to a provisional budget based on income of £365.1m, expenditure of £367.5m, a deficit of £2.5m and a capital plan of £23.5m. If approved, work will continue on the CIP as will discussions with the Clinical Commissioning Group ahead of the Annual Plan being submitted to Monitor in May.

Discussion and challenge:

Mr Brent thanked Mrs Tracey and her team for their hard work on the budget. He stated that it was difficult to enthuse about accepting such a deficit but he recognised further work would take place to improve this position.

Mr Knott asked Mrs Tracey to further explain the movement of £6m from a £3.5m surplus to £2.5m deficit. Mrs Tracey explained that this proposal was part of the risk mitigation during 2013/14 and would give a means to meet identified financial issues in particular CIP shortfall during the year. Mrs Tracey noted that the Trust’s largest growth was in emergency patients and those were paid at 30% of the tariff. Mr Brent said in response that this level of tariff is unsustainable, particularly bearing in mind the Francis Report and its acknowledgment that safe services need to be provided on a sound budget. He added that the Trust’s two new wards had been added at a cost to the Trust’s cash position and profitability but it had absolutely been in the interests of the patients.

Mr Willis asked about the Transformation programme and projects and how it was built into the CIP. As the Trust’s financial viability depends on delivering these projects, he also asked about the reporting of the Transformation programme. Ms Cottam replied that the transformation programme is reflected in the CIP and that the programme has three distinct areas: 1) improve efficiency to generate savings, “business as usual”; 2) larger-scale transformation and service re-design; 3) other projects such as business development, back office/support function review. There is a gap in the CIP and staff have identified areas for savings but these have not yet been
quantified. In terms of reporting, there is a monthly transformation Programme Board meeting. Each project has a team of staff and each team reports to the Programme Board. A Benefit Realisation Group has been established to track that the benefits are being delivered and on time. If this is not the case, it will look to address the shortfall. Work is still on-going as to how this Group and the Programme Board will report to the Board, though this could well be done through the Integrated Performance Report.

Mr Brent said that the capital expenditure plan had been set with a £3.5m surplus. Can it be reviewed in the light of the tougher financial environment? Mrs Wilkinson-Brice replied that the replacement equipment programme had been reviewed and risk assessed. As all equipment is replaced on a rotational basis there is no great opportunity to delay replacement schemes.

Mr Brent asked if the surplus targets for the next two years were reasonable. Mrs Tracey replied that if there was a £2.5m deficit in 2013/14, it was anticipated the position in 2014/15 would be break even with a £3.5m surplus in 2015/16. Further work was required to give assurance on this.

Mr Wright said that the Trust was entering into a new type of contract with a new commissioning body and asked if the benefits could be explained. Mrs Tracey replied that the Trust will still work within the national contract framework with Payment By Results but on a managed contract basis, which provided greater certainty for both parties. The Trust and the CCG will agree the next three years which will allow a greater focus on collaborative working. The risks in the contract will be identified along with how they will be managed. Both parties recognise it is a different way of working but that it is in the best interests of the patients that they work together.

**Action:** The Board agreed the provisional budget, subject to further work taking place to reduce the deficit prior to the submission of the Annual Plan 2013/14.

### 31.13 SOUTH WEST PAY TERMS AND CONDITIONS CONSORTIUM REPORT

The Chairman invited Mr Paul Andrews, Chair of Staff Side, to address the meeting. Mr Andrews began by acknowledging the difficult financial position the Trust was in, particularly in the context of the Nicholson Challenge, the Francis Report and a changing NHS culture. He said it was the view of Staff Side that Agenda for Change, the national pay framework, was best for the Trust as it was supported by the Department of Health and brings both stability and savings to Trusts. He added that the optimisers within Agenda for Change (additional freedoms for Foundation Trusts) had not yet been maximised by the RD&E. The Staff Side were committed to work with the Trust on implementing the optimisers. There was concern for staff morale and subsequently for patient care. He emphasised Staff Side’s view that the Trust should withdraw from the South West Pay Consortium and give a clear commitment to the new national framework for pay, terms and conditions as well as stating clearly how it plans to deal with the Francis Report recommendations.

The Chairman thanked Mr Andrews for his address and invited Mrs Lane to present her paper to the Board. Mrs Lane reminded the Board of the background to the Consortium and the reasons for the Trust joining. The work of the Consortium was now complete and the national Agenda for Change recommendations had been published at the end of February. These
recommendations would deliver around £200k in savings for the Trust. The Trust has worked with Staff Side around, for example, on-call payments, and recruitment and retention payment and it was important to discuss the annual staff savings of £5m a year over the next five years. Mrs Lane added that the Board do acknowledge that changes could impact on quality and any changes would be carefully risk assessed. She asked the Board to approve recommendations 1 to 9 in the paper. The initial focus of activity would be:

- implementing in full the recent national changes to Agenda for Change
- working with the Staff Side to further review the optimisers within the existing Agenda for Change Framework
- actively encourage and support the national negotiations, agreed within the 2013/14 Agenda for Change, to identify further changes to the framework to ensure it remains affordable and fit for purpose. The Board would review progress after July 2013 and should the national negotiations not deliver the required progress to consider reinstating the Consortium approach.

Discussion and challenge:

Mr Brent said that the Trust would work through the optimisers and that it supports Agenda for Change.

Mr Knott asked if the national process was fit for purpose. Mrs Pedder replied that the second stage of the national negotiations were very important. The Trust did not have the option of doing nothing on pay and conditions, so it was vital that the further national proposals expected in July delivered the savings the Trust needed. She reiterated that the Trust supports the national negotiations but that if the savings were not delivered the Trust will need to return to looking at the local position.

Mr Robertson asked if the national negotiators were under the same financial constraints as the Trust. Mrs Pedder replied that they do understand the challenge in place. As a whole the NHS has seen its budget protected but saving requirements were different in different sectors (i.e. they were more acute for hospitals than in the community) yet the pay negotiations are for the NHS as a whole and therefore may not be sufficiently focussed on the challenges of the acute sector, where the majority of staff were currently employed.

Mr Brent asked the Board if they agreed the proposals in the paper and the next steps described and this was confirmed.

Action: The Board approved: recommendations 1 to 9 in the paper. The initial focus of activity would be:
- implementing in full the recent national changes to Agenda for Change
- working with the Staff Side to further review the optimisers within the existing Agenda for Change Framework
- actively encourage and support the national negotiations, agreed within the 2013/14 Agenda for Change, to identify further changes to the framework to ensure it remains affordable and fit for purpose. The Board would review progress after July 2013 and should the national negotiations not deliver the required progress to consider reinstating the Consortium approach.
Mr Cooper presented the Integrated Performance Report for the period ending February 2013.

Key issues highlighted were:

**Operational Matters:**
- February saw average non-elective admissions for the time of year.
- Elective admissions had not been disrupted despite Norovirus in the community.
- The winter capacity plan initiatives have led to improvements in the quality of care and patient flow:
  - 7 Day Working in Medicine – this has resulted in a 20% reduction in length of stay in the Acute Medical Unit (AMU) with a reduction in the average stay of 1 day on the other medical wards. This enhanced service is being extended until the end of April, when it will be assessed and a decision made whether to continue.
  - Paediatric Assessment Unit – this has been established with the Emergency Department and has reduced paediatric admissions to Bramble Ward. This is a trial service, funded until mid-May, by which time discussions will have been completed regarding future delivery of this service.
  - Ambulatory care – the ambulatory care and discharge lounge area was opened on the AMU in December as part of the strategy to improve patient flow and reduce delays for patients waiting for beds. This development has contributed to the improved performance in meeting the Emergency Department 4 hour wait target. Feedback from staff has also been positive.
- Cancer targets were currently being missed in the quarter. A cancer summit had taken place that morning (27 March) involving 52 members of staff and the team from IMAS looking at how to improve performance and care for patients via a systematic review of the cancer pathways.
- The Referral to Treatment recovery plan remains on track.

**Finance:**
- The year to date surplus is £0.6m against a plan of £3.5m at year end, however the Monitor Risk Rating of 3 has been achieved.
- Both pay and non-pay expenditure are over-spent.
- The Capital programme was under-spent by £1.5m at the end of February, mainly due to the delays in the Central Intravenous Additive Service (CIVAS) and Research, Innovation and Learning and Development (RILD) schemes. The CIP requirement is £16.9m and £15.6m has been achieved so far. £9.2m will be achieved recurrently by year end, leaving a shortfall of £7.7m that needs to be addressed on a recurrent basis. A resolution has been identified for £6m, leaving £1.7m to be resolved as part of the financial planning for 2013/14.

**Quality:**
- The Trust continues to perform well in respect of delivering harm-free care as measured by the Safety Thermometer.
- The issues around the increase in slips, trips and falls and the decline in compliance with the Malnutrition Universal Screening Tool (MUST)
nutritional assessments were being addressed.

**Human Resources:**
- Staff turnover had reduced to less than 10%.

**Discussion and challenge:**

Mr Knott gave his congratulations to the Trust for keeping on track during the winter period. He asked when the cancer targets were due to be back on track. Mr Cooper said it was a longer-term issue and the Trust was looking at the whole patient pathway to ensure the improvement is sustainable. The work that is being done is across the whole Trust to ensure integration. Mrs Wilkinson-Brice added that the summit with IMAS had looked at process issues and how one patient can be on three or four targets. There is, however, confidence that the Trust knows what it needs to do in order to get back on track.

Mr Willis asked if there would be any involvement from the Regulator due to the failure to meet the cancer targets. Mrs Wilkinson-Brice said that if the Trust fails Quarter 4 it will be rated Amber-Red with Monitor; however regulatory failure is based on individual cancer targets not the cumulative position and work was underway to mitigate against the risk of failing three successive quarters. Mrs Pedder added that the 62-day target was the highest risk cancer target for the Trust due to the small number of patients and had not been achieved in Q3.

Mr Brent recognised the very strong performance in regard to the Emergency Department waits during the winter period and gave the Board's thanks. The Board, except for Mr Brent a member of the judging panel, agreed to nominate the team for an Extraordinary People award.

Mr Brent asked if there was concern over the *Clostridium Difficile* target for 2013/14. Mrs Wilkinson-Brice responded that there was some concern as the target was being halved but the penalty being increased. *Clostridium Difficile* is present in 30% of the population with the Devon region having a higher prevalence due to the demographics. The Trust will need to reduce patient moves, consider antimicrobial prescribing and review its deep clean programme to ensure the target is met. The Executive Lead for infection control is passing to the Medical Director which will help the focus on medical practice. Dr Lewis added that there is a CQUIN (Commissioning for Quality and Innovation) around anti-microbial prescribing and discussions are ongoing with community care about not prescribing drugs which pre-dispose to *Clostridium Difficile*. Mrs Pedder continued that if the Trust maintains its performance of the last two quarters it will meet the new target but there remained a significant risk.

Mrs Lane said that she would like to acknowledge the work completed by staff to improve the essential training compliance rates. The Board had mandated improved and sustained performance by March 2013 and this had been achieved ahead of target.

**Action:** The Board noted the report.

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Mr Chinnock presented the paper to the Board which outlined some of the new provisions of the Health & Social Care Act 2012 and their implications for the Trust Constitution and the key issues in the new provider licence, which replaces the Terms of Authorisation. Mr Chinnock informed the Board that the Trust, being a Foundation Trust, will have its licence issued automatically by Monitor. It replaces the Terms of Authorisation from 1 April 2013.

Both the provisions in Part 4 of the Act and the licence mean that the Trust Constitution requires updating and the Constitution Review Working Group is being re-established with Governors, the Chairman and Chief Executive as members. Some of the changes will have to be made to ensure compliance but there are some changes that are optional, for example defining a ‘significant transaction’. Mr Chinnock added that the Trust had taken legal advice on the matter of ‘significant transaction’ and this was circulated to Board members.

Mr Chinnock said that this is also an opportunity to revisit the Constitution generally and Board members were invited to contact him or the Chairman with any issues they may have.

**Action:** The Board noted the report.

### 34.13 MONITOR Q3 EXECUTIVE SUMMARY

This was presented by Mrs Pedder. Its contents were noted.

**Action:** The Board noted the report

### 35.13 ANY OTHER BUSINESS

There was no other business.

### 36.13 PUBLIC QUESTIONS

The Chairman invited questions from members of the public.

- A member of the public said he had recently used Chime’s audiology services based at the RD&E and complimented their work. He added he was aware that Chime were not part of the RD&E and were owned by another company. How did the Board envisage competition would work under the new Act and how would it affect the RD&E? Mrs Pedder responded that Chime was set up three years ago as a social enterprise providing community services. The service they provided was commissioned by the Primary Care Trust. Under the new Act, commissioners will have to test the market when commissioning services, so competition will be an issue for the new Clinical Commissioning Groups.

  In terms of the RD&E, as a Foundation Trust it is defined as an “enterprise” and subject to competition law. A Public Governor asked if it was time for the Trust to challenge the Government to provide the right level of funding to Trusts in order for them to provide care safely. Mrs Pedder replied that as an organisation the RD&E is a public benefit corporation and has a responsibility to work within the publically funded national health system. The Board cannot make the challenge directly but can work with organisations such as the Foundation Trust Network to get issues raised nationally. Mr Brent added it was the Board’s duty to get the message out about the challenges faced in terms of an increasing older population and reduced funding but ultimately the Trust had to work with the budget it has.
Mrs Tracey said that the Board is also very clear in that it will not compromise safety and at this point in time, based on risk assessments, the Trust is providing safe care.

- The Public Governor further said that the sickness monitoring proposed by the consortium seemed to be a penalising approach that could risk damaging morale and forcing staff members, who are ill, to work alongside patients which should not be encouraged. In reply, Mrs Pedder agreed with this point but said that she had attended many meetings with staff where concerns were expressed over sickness taken at weekends or on Bank Holidays by staff when enhancements would be due. There was a perception amongst staff that some of their colleagues used the sickness pay arrangements unfairly and inappropriately. Sickness must be taken in a reasonable way and the Trust would not encourage staff to work if they are unwell.

- A member of the public asked if the choice was either reduced pay and terms and conditions or there will be redundancies. Mr Brent said the Trust has to make £17m each year in savings and 70% of its costs are staff related. The Trust supports the national discussions and will look to maximise the optimisers but the main point is that it cannot take the position of ‘doing nothing’ on staff costs and will not abdicate its responsibility to look at pay and terms and conditions. Mrs Pedder added that there are no plans for compulsory redundancies but that they cannot be ruled out in the future.

- A member of the public asked how staying in the consortium would affect the RD&E’s ability to recruit and retain staff if other local Trusts were not members. Mrs Pedder replied that the consortium’s work was complete and it was no longer meeting. The RD&E will await the outcomes of the national negotiations in July and if the Trust can find a national solution, that is what it wants to achieve.

Mr Brent thanked the public for their attendance and for their questions.

### 37.13 DATE OF NEXT MEETING

The date of the next meeting was announced as taking place at 2.00 p.m. on Wednesday 24 April 2013 at the Royal Devon and Exeter Hospital.

There being no other business, the meeting was adjourned.
This checklist provides a status of those actions placed on Board members in the Board minutes, and will be updated and attached to the minutes each month.

### OPEN AGENDA

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<thead>
<tr>
<th>Minute No.</th>
<th>Month raised</th>
<th>Description</th>
<th>By</th>
<th>Target date</th>
<th>Remarks</th>
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<tbody>
<tr>
<td>06.13/07.13</td>
<td>January 2013</td>
<td>Exception Reports on RTT Recovery Plan to the board</td>
<td>EWB</td>
<td>On-going</td>
<td></td>
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<tr>
<td>06.13/07.13</td>
<td>January 2013</td>
<td>Task and Finish Group to be established to look at the IPR and report back to the Board</td>
<td>JC</td>
<td>April 2013</td>
<td>T&amp;F Group due to meet in April</td>
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<tr>
<td>17.13</td>
<td>February 2013</td>
<td>Action planning from Staff Survey 2012 results to be brought to the Board</td>
<td>TAC</td>
<td>May 2013</td>
<td>Meeting 5 May 2013</td>
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<tr>
<td>18.13</td>
<td>February 2013</td>
<td>Governance Committee to be tasked with the work around the response to the Francis II Report’s recommendations</td>
<td>EWB</td>
<td>July 2013</td>
<td>Agreed at March Board to bring the date forward to July as the Governance Committee would complete their work in June.</td>
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<tr>
<td>32.13</td>
<td>March 2013</td>
<td>ED team to be nominated for an Extraordinary People Award</td>
<td>EWB</td>
<td>April 2013</td>
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<tr>
<td>33.13</td>
<td>March 2013</td>
<td>Legal advice on ‘significant transaction’ to be circulated to the Board once received</td>
<td>JC</td>
<td>April 2013</td>
<td>Circulated with March Board papers</td>
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