Chelsea and Westminster Healthcare NHS
NHS Trust

Minutes of the Public Meeting of the Trust Board held on 29th April 2004.

Present: Non-Executive Directors

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| Juggy Pandit (Chair) | Marilyn Frampton | Andrew Havery |
| Jenny Hill | Charles Wilson | |

Executive Directors
Heather Lawrence, Chief Executive
Mike Anderson, Medical Director
Lorraine Bewes, Director of Finance and Information
Edward Donald, Director of Operations
Andrew MacCallum, Director of Nursing
Clare McGurk, Acting Director of Human Resources
Alex Geddes, Acting Director of ICT

In Attendance: Sue Perrin, Head of Corporate Affairs
Professor Mervyn Maze, Director of Research and Development (item 1.7 only)
Anna Croft, Associate Director of Service Development (item 3.1 only)

**Action**

1. GENERAL MATTERS

1.1 WELCOME
The Chairman welcomed staff and members of the public.

1.2 SENIOR STAFF
The Chairman welcomed Clare McGurk and Alex Geddes, who would take up the posts of Director of Human Resources and Director of ICT respectively on 3rd May.

1.3 APOLOGIES FOR ABSENCE
Apologies were received from Professor Ara Darzi

1.4 MINUTES OF THE MEETING HELD ON 25th MARCH 2004
The Minutes were agreed as a correct record and signed.

1.5 MATTERS ARISING FROM PREVIOUS MEETING

1.5.1 ASSISTED CONCEPTION UNIT (ACU)
Lorraine Bewes tabled a paper, which showed that, although the unit delivered a £21,000 surplus against service direct costs, there was an under contribution of £107,000 to total costs. Credit notes had been raised relating to the duplicate/incorrect billing, which had resulted in a reduced budget contribution. There had been a significant improvement in performance of £249,000.
Heather Lawrence noted the decrease in self funded IVF, which could have resulted from the lack of locum cover for consultant leave.
Marilyn Frampton asked if egg sharing had impacted on income. This question would be addressed in the strategy paper, which would be brought to the June meeting. Heather Lawrence said that the income target and consultant cover would have to link with recovery plan actions.

ED – June
TB

**Action**

1.5.2 RISK REGISTER

Andrew MacCallum said that the un-recovered income had been estimated at £80,000. Recovery would involve cash collection in the Accident & Emergency Department. Consideration was being given as to how this could be practically done.

1.5.3 INQUEST

Mike Anderson said that he was pursing the discussion with the National Patient Safety Agency.

1.5.4 AUDIT COMMITTEE

Lorraine Bewes said that the Terms of Reference would be signed off at the next meeting.

1.5.5 CHEYNE CENTRE

Heather Lawrence said that the date for closure of the consultation period had been deferred to 30 June. The financial information, which was outstanding, would evaluate all options. Lorraine Bewes said that the Trust had been asked for information in the last three weeks. Edward Donald said that questions were being raised with the Women and Children's Directorate and he had advised that it would be inappropriate to respond. Heather Lawrence confirmed this. She said that the enquiries should be addressed to the PCT, which was leading the consultation process.

1.5.6 STANDARDS FOR BETTER HEALTH

Comments had been received from Marilyn Frampton, who would be attending a seminar on the subject.

1.6 CHIEF EXECUTIVE'S REPORT – ORAL UPDATE

1.6.1 SENIOR STAFF APPOINTMENTS

Heather Lawrence congratulated Clare McGurk and Alex Geddes on their recent appointment to the Trust Board.

1.6.2 VISITORS TO THE TRUST

Heather Lawrence said that the Chief Executive of the NHS, Sir Nigel Crisp, had opened the Clinical Skills Centre for multi-professional education and training. Lord Warner, Parliamentary Under-Secretary of State had launched the Hand Hygiene week and had asked to see Patientline.

1.6.3 FINANCE REPORT

Heather Lawrence said that the Trust had been told to submit a balanced budget. Accounting for Service Level Agreements, Local Health Delivery Plan and new pressures, a gap of £25 million existed. This gap had been reduced, but arbitration would be inevitable. Difficult savings targets had been imposed, and there was an executive lead for each target. Changes in working practices would be considered, rather than traditional cost cutting on specific items. A detailed recovery plan was being developed.

1.6.4 TREATEMENT CENTRE

Heather Lawrence reminded the Board that the Trust had been asked to develop plans for a Treatment Centre and that this was good strategically. There had been delays because of the option appraisal for the re-siting of the Western Ophthalmic Hospital and this had resulted in a considerable delay in processing the outline business case.

**Action**

The Trust had therefore worked to a tight timetable. The Strategic Health Authority (SHA) had not appraised the full business case at its April meeting. At Heather Lawrence's request, the Chair and Acting Chief Executive has considered it on the Tuesday after Easter, and the SHA has decided that it should not proceed until a balanced budget had been agreed. Delay would impact on other developments within the hospital. Unless immediate approval was given, it would not be possible to deliver the Centre for January 2005, with implications for Patient Choice income. A meeting with the PCT and the SHA had been scheduled. Heather Lawrence re-iterated that a balanced budget was not possible. The Chairman said that the process had been badly handled and the Centre ruled out on principle.

Lorraine Bewes said that the dependency on a balanced budget should have been stated on presentation of the Outline Business Case. She reminded that Board of the statutory duty to break even, and that this could be achieved only by reducing quality.

Edward Donald highlighted the inability of the SHA to recognise the seriousness of the problem and to work with the Trust. Flexibility in the system had been eroded. Heather Lawrence said that the SHA had not been prepared to agree a formal recovery plan with the Trust in 2002/2003 and was not able to consider a two year recovery plan.

Andrew Havery noted that the savings plan was challenging and contained high risk.

1.7 INTELLECTUAL PROPERTY POLICY

Professor Maze said that the policy had been drafted following government instructions and legislation to exploit intellectual property, together with the implementation of Research Governance. The policy, which had been developed in conjunction with Imperial College, was consistent with employment legislation.

Professor Maze explained that intellectual property belonged to the Trust, even if developed outside working hours, provided that it was in an area of work, which the individual was employed to do. It was likely that revenue sharing would be with Imperial College.

Professor Maze explained the role and funding of 'Ventures for Health'. Intellectual Property could relate to health delivery and teaching discoveries, as well as to research.

Lorrraine Bewes referred to the paragraph entitled 'Budget' and asked why the Trust would take forward an invention, if Ventures for Health would not. Professor Maze said it was unlikely that the Trust would, although the individual might do so.

Clare McGurk said that these regulations had been written into employment contracts for new employees, and existing employees would be made aware of them.

The Chairman asked how the regulations would be applied to consultants who worked in more than one Trust. Professor Maze replied that there would be due diligence to wok out the relative contributions of each, and there were standard arbitration conditions.

Heather Lawrence noted that the regulations applied to the work undertaken by SSAT and had been included in the memorandum of understanding.

Andrew Havery referred to the assignment of intellectual property to an individual and asked if there would be any capital gains or income tax. Professor Maze said that there would be no value until Intellectual Property had been patented.

Mike Anderson asked if the reference to activities outside normal duties had been made strongly enough. Professor Maze said that ultimately the decision would be a value judgement.

**The Trust Board approved the policy.**

**Action**

2. PERFORMANCE

2.1 FINANCE REPORT

Lorraine Bewes tabled an updated Savings Plan and outlined the year end position. The deficit would be between £4 and £5 million. This deterioration was largely the result of aged debt, which had been assessed and the write off approved by the Audit Committee. The forecast deficit for the North West Sector was £15 million.

**The Trust Board noted the progress with setting the Trust Savings Target for 2004/2005, and agreed that further discussion should take place in the light of the paper on Budget Setting.**

2.2 BUDGET 2004/2005

Lorraine Bewes presented the paper and referred to the previous month when a gap of £9 million had been indicated. As a result of work to firm up SLA income expectations with PCTs and work within directorates to reduce cost pressures, the gap position had been improved to £6.5 million. The gap had been further closed to £3.1 million as a result of the savings plan.

Lorraine Bewes confirmed that no SLAs had been signed. Overall income was expected to increase by 8.9%, which compared reasonably with headline growth of 9%. There were a number of key assumptions:

- Income targets would reduce by £4.6m for recovery plan income on the basis that they were either non-recurrent contributions or the income target was under achieved in 2003/2004;
- The Trust would pursue correction of historical under funding issues totalling £1m, which covered correction of the NICU marginal tariff, Maternity Business Case – Wandsworth PCT and Burns Critical Care bed-days, and was considered to be hgh risk.
- The Trust had secured £1.7m of over performance based on the activity baseline for the 12 months to 30 September 2003 (the national guidance baseline). There was a risk that some PCTs would challenge the high level of maternity over performance within this.
- Generic inflation funding had been assumed at 5.58% on PCT income and 4.5% on all other income, with the exception of salary recharges at 3.225%.
- The Trust had secured additional income to fund 2% increase in emergency admissions in line with national planning guidance and elective activity to deliver the Trust's Local Health Delivery Plan (LHDP) trajectory of £3.7m.
- Cost pressures had been reviewed by the Executive Directors and had been reduced by half to £13 million. The reduction in unfunded generic pressures had come from a reassessment of consultant job plans in Anaesthetics leading to a reduction in the European Working Time Directive cost estimate. The remaining pressure on generics was almost entirely within the 1% efficiency loss. The savings target was £5.6 million.

Lorraine Bewes outlined the key elements of the savings programme, which had been updated by the previous paper. The LHDP would deliver six month waits, although a number of PCTs in the health economy had said that they did not support this level of access in advance of the NHS Plan target. The Trust would need to negotiate risk share arrangements to ensure that capacity was funded. The Trust would be reviewing the life of the building with the District Valuer. The unexpired life was thirty three years. An extension of its life would improve the Income and Expenditure position.

A significant part of the recovery plan related to private patients and this was regarded as high risk. The Trust had submitted its financial plan based on a £3.1 million gap. No assumption had been made about the payback of any deficit in 2003/2004. Foundation Trust Status would not automatically be ruled out by the deficit, if a plan to re-pay over a period of time could be demonstrated.

**Action**

Heather Lawrence said that targets would be added to Action Plans with deliverables and dates. Andrew Havery asked for the actions to be timetabled, with distribution over the year.
Edward Donald said that Patient Choice would result in the Trust losing money for patients who were 'sent out' for treatment at full cost.

**The Trust Board:**

- **Supported the targets, which were considered to be sufficiently challenging; and**
- **Agreed that the Trust was not able to submit a balanced budget.**

2.3 PERFORMANCE MANAGEMENT

Edward Donald presented the report which provided information about the Trust's performance for the full year. The Trust had delivered all of the key indicators with the exception of Financial Management (eight out of nine) and had a fairly healthy balanced scorecard (secondary targets of patient, clinical, capacity and capability), although the tolerance levels remained an unknown quantity.
Edward Donald updated the Trust Board on the key risks, with the exception of the financial position, which had been discussed previously.

- 90% of patients attending Accident & Emergency to have been assessed, treated, admitted or discharged within 4 hours from 1st July to 31 March 2004: - a cumulative performance of 90.1% had been achieved since the start of the monitoring period. During March the Trust had achieved a performance of 95.8%, qualifying for the £100,000 capital bonus awarded by the Department of Health, to all Trusts delivering 95% plus performance.
- 67% of elective and outpatients to be booked during March 2004: - this target was surpassed, with 89% of patients booked. Day Surgery had achieved 99%. This had been a significant achievement and the aim was to sustain performance. The outpatient target was also surpassed with 77% of patients partially booked. Delivering the outpatients booking target within two months from a starting point of 21% had generated a number of operational issues, which would be addressed by the lead manager together with the Outpatients Managers and the IM&T Manager.
- Complaints: - The Trust had achieved 82% of complaints being responded to within 4 weeks, above the standard set for the year.
- Information Governance: - The Information Governance Group had been established and had achieved its immediate aim of delivering an amber target. A programme of improvements would be put in place.
- Staff Survey: - This had not been scored, but it was likely to be taken into account in star ratings.

Outpatient and Inpatient Waiting Times: - At the end of March 2004, 98% of patients had waited less than 13 weeks for their first outpatient appointment following referral from a GP. In relation to waiting lists, 92% of patients had waited less than 6 months for their treatment. This had been made possible by Funding from Delivering the Plan Early Funds and Patients' Choice, which would not be available in the current year.
Heather Lawrence noted the red banding for stroke care. Edward Donald replied that this was a new target and scoring was to be confirmed. The position had improved in year. In quarter 4, 80% of patients had been admitted to Nell Gwyne Ward, with this increasing to 100% in March. However, because of the small numbers, the impact had been slight.

**The Trust Board noted the report.**

**Action**

2.4 SERVICE LEVEL AGREEMENT 2004-2005

Edward Donald presented the report, which updated the Trust Board on the progress being made in relation to Service Level Agreements (SLAs). The principles set out in the report had been based on the outcome of a recent meeting between the Trust, the host PCT and the Strategic Health Authority (SHA). The SHA had confirmed that the Trust would not be able to use the maximum 2% cash releasing efficiency saving to support its recovery plan in 2004/2005. The maximum contribution would be 1%. The generic uplifts would automatically deduct 1% from the Trust's allocation, as part of the revised funding formula nationally, adding £2 million to the Trust's opening deficit.

The SHA had confirmed that where there was a difference of opinion regarding the measurement period for baseline activity, national guidance would apply, namely September 2002 to September 2003. The Trust had confirmed that it would adopt this, as it ensured a consistent approach. It also reflected the period when the additional activity had been undertaken above PCT funded levels, supported by 'Delivering the Plan Early' funds.

The SHA had confirmed that the Trust should base its activity plan on delivery of the elective and outpatient access targets set out in the Local Health Delivery Plan (LHDP). This was based on a maximum six month wait for patients on the waiting list and a maximum thirteen week wait for outpatients. However, most local PCTs had indicated that they did not wish to purchase a six month level of activity. Funding would not be available to undertake waiting list initiatives in 2004/2005.

PCTs had indicated that there would be no funding for LHDP investment other than activity driven targets. Investment in other priority areas such as cancer, coronary heart disease, diabetes, infection control, older people and TB services would need to be funded from additional savings. It was understood that the PCT was holding money for investment in diabetes.

Edward Donald said that patients who had not received an admission date within four and a half months would be eligible for Choice in a range of specialties, for agreed procedures. Patients treated as part of the Chelsea and Westminster's waiting list at another hospital would be reimbursed at full rate from the Trust's income. Work was underway to ensure that all patients had a TCI date within four and a half months where capacity was available. There were operational difficulties in Orthopaedics and Plastics, and work would be undertaken on scheduling.

**The Trust Board noted the report.**

2.5 WORKFORCE REPORT

Clare McGurk presented the paper, which updated the Trust Board on the Trust vacancy, wastage and sickness rates, and reported on nursing and midwifery bank and agency usage. The overall vacancy rate had fallen from 11.7% in January to 10.3% in March 2004, reflecting both an increase in the number of joiners as well as a marked fall in the number of leavers. The combined nursing and midwifery vacancy rate was 14.3% at the end of the quarter, comprising a 30.6% midwifery rate compared to a 11.9% nursing vacancy rate. The nursing vacancy rate was reduced to 10.2% when adjusted for posts filled by staff working flexibly and at less than full time budgeted hours.

As a result of a Midwifery Open Day and a recruitment campaign in Scotland, ten job offers had been made. A further eleven midwifery offers were expected to be made on the receipt of references. The Trust was working with an international recruitment agency to source midwives from Finland. As part of the Trust's participation in the Creating Capacity Project, a number of Midwifery Assistants had been recruited and would take on new supporting roles.

The number of leavers had decreased significantly from 2.1% in December 2003 to

**Action**

0.9% in both February and March 2004. Qualified nurse wastage had reduced by 28% during the quarter and midwifery wastage had dropped from seven leavers in quarter 3 to one in quarter 4.
New initiatives under the Trust's Retention Strategy included the appointment of a Childcare Co-ordinator, sponsored by the Workforce Development Confederation, and The Starter Homes Initiative whereby staff were able to access a loan to fund the purchase of a property.
Sickness absence rates had fluctuated over the quarter, reducing in February to 3.4% and rising to 4.3% in March.
Nursing bank and agency usage had risen steadily from eight whole time equivalents in January to 41 in March, as the Trust returned to pre-Christmas activity levels. Clare McGurk and Andrew MacCallum would be undertaking an analysis of skill levels.

**The Trust Board noted the report.**

3. STRATEGY/DEVELOPMENT

3.1 NHS FOUNDATION TRUST STATUS

Anna Croft updated the Board on the progress made with the NHS Foundation Trust application process. The formal public consultation would end on the following Tuesday. There had been 137 written responses and 11 verbal, mainly supportive and 160 expressions of interest in membership.
The second draft of the service strategy had been circulated and the Department of Health had indicated that it was along the right lines. Provision of financial information was underway, but this had proved to be a massive task. In respect of Governance, thousands of members would be required for a meaningful election and resources would be required to manage the database.
The Human Resources Strategy had been circulated electronically and staff consultation was underway. The Chief Executive and some directors would be attending the Overview and Scrutiny Committee on the following Wednesday.
Charles Wilson said that the membership would be beneficial for the Trust, even if it did not proceed with its application. Heather Lawrence said that justification of the work involved would be dependent on the date of the next cohort.
Lorraine Bewes said that the Trust needed to focus on the recovery plan and the work for foundation trust status was a real diversion. The Trust had not been able to submit a balanced budget, and the SHA had not been prepared to agree a joint recovery plan over several years.
Anna Croft said that the application would go to the Secretary of State in mid-June and to the Regulator in mid-July. The 18th June would be the deadline for the Trust to withdraw of its own volition. The decision would be taken by the Trust Board and, later in the process, the Regulator would require a Trust Board memorandum to be signed by directors individually.
Andrew Havery considered that the resolution of financial and other issues such as data quality should take priority. Alex Geddes said that progress had been made on data quality and specifically on coding since the report, received by the Audit Committee.
Lorraine Bewes said that the Trust Board needed greater understanding of what was involved in the application.
It was noted that Anna Croft would be leaving at the end of May.

**The Trust Board agreed that the discussion should be taken forward in the confidential part.**

Charles Wilson left the meeting.

**Action**

3.2 TREATMENT CENTRE

This item had been covered in the Chief Executive's Report.

4. GOVERNANCE

4.1 CONTROLS ASSURANCE

Andrew Havery said that the Audit Committee had received copies of the scores and action plans for individual Controls Assurance Standards. It had been agreed that for 2004/2005 the standards should be reviewed on an ongoing basis by the Governance Committee, with areas of concern being brought to the attention of the Audit Committee. The standards subject to review by Internal Audit would be taken to the Audit Committee. A draft Statement of Internal Control would be circulated to the Audit Committee on the following Wednesday, for sign off on the Friday.

Marilyn Frampton said that clarification was required as to how Controls Assurance and the Assurance Framework fed into the Statement. Andrew MacCallum said that Pippa Roberts, the Clinical Governance Development Lead, was working on this, and that he hoped that it would be possible to represent the process diagrammatically.

**The Trust Board noted the report.**

5. ITEMS FOR APPROVAL/INFORMATION

5.1 ACCESS POLICY

Edward Donald presented the paper, which outlined the key principles for managing outpatient and elective services. The development of an up to date Access Policy had been a key recommendation of the National Audit Office 'Spot Check' Report.

Mike Anderson noted that there could be several waiting lists funded by different PCTs and that it would be possible for clinical priority not to be recognised if funding was not available.

Mike Anderson referred to 'Transparency' and said that the copying of ***all*** letters could cause a major tension in some specialties, for example GUM. Further guidance was awaited. The Trust had implemented the policy on a 'where appropriate' basis.

Marilyn Frampton asked why clinics needed to be cancelled because of planned leave. Mike Anderson replied that some consultants, such as himself, worked on a single handed basis and also some patients were planned far in advance. The second paragraph would be amended to reflect the fact that some patients could be seen by the registrar.

Lorraine Bewes noted the conflict in the first two sentences of 'Patients who do not attend a first Outpatient Appointment'. It was agreed that the first sentence should be qualified with 'normally'.

Edward Donald said that the policy would be updated once the outcome of Service Level Agreements was known.

**The Trust Board approved the policy document and noted that it would be reviewed and updated six monthly.**

5.2 PAY 2004 FOR TRUST CONTRACT HOLDERS

Clare McGurk presented the paper, which provided a summary of the 2004/2005 national pay agreements for both Pay and Non Pay Review Body staff on Whitley terms and conditions. The paper outlined the implications of Agenda for Change and recommendations for a range of Trust Contract Holders.

**The Trust Board approved the recommended pay offer of 3.225%**

5.3 NATIONAL STAFF SURVEY 2003 – SUMMARY OF RESULTS FOR CHELSEA AND WESTMINSTER HEALTHCARE NHS TRUST **Action**

Clare McGurk presented the summary of the survey. Questionnaires had been circulated to a sample of 800 staff. 352 were returned, representing 15% of the total number of Trust employees. There were a number of positive key indicators as well as a number of clear areas for focus. 'Harassment, Bullying and Abuse', was of particular concern. Staff had indicated that in the previous twelve months, 54% had experienced harassment, bullying and abuse. This was the highest level reported nationally. 70% of responses cited patient/clients and relatives of patients/clients as the source of this behaviour with 30% experiencing harassment, bullying or abuse from their manager/supervisor or from colleagues. Edward Donald commented that it would be interesting to know if staff felt supported in these circumstances. Heather Lawrence suggested that there should be a review of the Trust's customer care packages, as unintentional body language could provoke an adverse reaction. Andrew Havery said that he would be able to obtain examples of good practice. AH

Clare McGurk said that an action plan would be agreed with the Staff Side and this would be presented to the next meeting of the Trust Board. CMcG – May TB

Additionally, Occupational Health would be leading a Trust wide stress risk assessment that would be carried out at directorate level.

Clare McGurk reminded the Board that the Trust had expressed interest in being assessed for Improving Working Lives (IWL) Practice Plus and undertaking the process in July 2004. Provision of training and clarification of the assessment process from the National IWL team had been slower than anticipated and it was proposed that the assessment should be rescheduled to take place in the Autumn. This would also allow sufficient time to address the feedback from the Survey.

**The Trust Board noted the report.**

5.4 ADVISORY APPOINTMENTS COMMITTEE

**The Trust Board endorsed the appointment of:**

Miss Alice Bremner-Smith, Consultant Orthopaedic Hand Surgeon
Dr Romney Pope, Consultant Radiologist with an interest in Paediatric and Breast Imaging.

6. QUESTIONS FROM THE MEMBERS OF THE PUBLIC

There were no questions.

7. ITEMS FOR INFORMATION

There were no items under this heading.

8. MINUTES OF SUB COMMITTEES

The Trust Board received minutes:

8.1 Communications Sub-Group, 22nd March 2004

Clare McGurk said she had attended the subsequent meeting and relayed the Chair's expectation that executive and non-executive directors would attend Open Day, 22nd May 2004.

9. ANY OTHER BUSINESS

9.1 There was no other business.

10. DATE OF THE NEXT MEETING

10.1 27th May 2004

11. CONFIDENTIAL BUSINESS

The Chairman proposed and the Trust Board resolved that the public be now excluded from the meeting because publicity would be prejudicial to the public interest by reason of the confidential nature of the business to be concluded in the second part of the agenda. The items to be discussed related to commercial matters and individuals.