

**Appendix 1**

# Report to the Meeting of the

# Oxford Health NHS Foundation Trust

# Board of Directors

**24th February 2016**

**Legal, Regulatory and Policy Update**

**For: Information**

**Executive Summary**

This is the monthly report to inform the Board of Directors on recent regulation and compliance guidance issued by bodies such as Monitor, the Care Quality Commission, NHS England, NHS Trust Development Authority and other relevant bodies where their actions have a consequential impact on the Trust or an awareness of the change/impending change is relevant to the Board of Directors. This report covers the period from January 2016 to mid-February 2016.

The Update Report is designed to reflect changes in legislation, guidance, the structure of the NHS, and government policy and direction on health and social care. A summation of the change is provided as a summary for each item. The Board of Directors is asked to consider and note the content of the report and where relevant, members should each be satisfied of their individual and collective assurances that the internal controls in place to deliver compliance against the Trust’s obligations are effective. Chairs of Board Committees should consider whether more detailed assurances relevant to their committees, are necessary, utilising this report as a constructive stimulant to inform the composition of meeting agendas and reporting focus as necessary or appropriate.

As Chief Executive I will make certain Executive Directors are aware of the changes relevant to their portfolios and will take forward any key actions arising from the Legal, Regulatory and Policy Updates. Progress updates on any relevant actions will be reported to the Board of Directors, as pertinent and appropriate.

The Director of Corporate Affairs will continue to develop or enhance internal control mechanisms to support the Trust in complying and being able to evidence compliance with relevant mandatory frameworks/obligations.

**ADDENDUM TO CHIEF EXECUTIVE REPORT**

**LEGAL, REGULATORY AND POLICY UPDATE REPORT**

**1 PURPOSE OF REPORT**

This report provides an update to inform the Board of Directors on recent regulation and compliance guidance issued by such as Monitor, NHS England, the Care Quality Commission, NHS Trust Development Authority and other relevant bodies where their actions have a consequential impact on the Trust or an awareness of the change/impending change is relevant to the Board of Directors.

Proposals regarding any matters arising out of the regular Legal & Regulatory Update report will be received by the Executive Team Meeting to ensure that the Trust is updated in a timely fashion, to enable the Trust to respond as necessary or helpful to consultations and to ensure preparedness for the implications of, and compliance with changes in mandatory frameworks.

**2 LEGAL/POLICY UPDATES**

**2.1 Mental Health Act: exercise of approval instructions 2015 (05 Jan)**

DoH has produced instructions that lay out the function of approving registered medical practitioners and of approving individuals to act as approved clinicians under the 1983 Mental Health Act. Application forms to become an approved doctor or clinician are to be requested from local approval bodies.

For more information <https://www.gov.uk/government/publications/mental-health-act-exercise-of-approval-instructions-2013>

**2.2 Providers of mental health services: new guides on episodic and capitated payments (06 Jan)**

Monitor has published 2 short guides that explain and outline the key components of payment approaches for adult and older people mental health services.

For more information: <https://www.gov.uk/guidance/new-payment-approaches-for-mental-health-services>

**2.3 Better Care Fund: how it will work in 2016 to 2017 (08 Jan)**

The Better Care Fund (BCF) will provide financial support for councils and NHS

organisations to jointly plan and deliver local services. DoH has provided a policy that sets out the agreed way in which the Better Care Fund will be implemented in financial year 2016 to 2017. It covers such issues as:

* the legal and financial basis of the fund
* conditions of access to the fund
* national performance metrics
* the assurance and approval process

The policy needs to be read alongside the ‘new’ NHS Mandate. <https://www.england.nhs.uk/wp-content/uploads/2015/12/05.PB_.17.12.15-Annex-A-Mandate-to-NHS-England.pdf>

For more information: [https://www.gov.uk/government/publications/better-care- fund-how-it-will-work-in-2016-to-2017](https://www.gov.uk/government/publications/better-care-%09fund-how-it-will-work-in-2016-to-2017)

**2.4 Dementia: post-diagnostic care and support (08 Jan)**

A joint declaration across government, health, social care and the third sector to deliver better quality services to people with dementia has been set-up to form a shared approach to improving the care and support people with dementia, their families and carers receive following a diagnosis.

Some of the organisations signed up include:

* Alzheimer’s Society
* Association of Directors of Adult Social Services
* Department of Health
* Dementia Action Alliance
* Dementia UK
* Health Education England
* London Dementia Strategic Clinical Network
* NHS England

For more information: <https://www.gov.uk/government/publications/dementia-post-diagnostic-care-and-support>

**2.5 Conditions for payments relating to property made by NHS bodies (11 Jan)**

DoH has provided Directions setting out conditions for payments relating to property by NHS bodies to local authorities and other organisations. These updated Directions set conditions relating to payments in connection with property made by NHS bodies to local authorities and other bodies under sections 256 and 257 of the NHS Act 2006.

For more information: <https://www.gov.uk/government/publications/conditions-for-payments-relating-to-property-made-by-nhs-bodies>

**2.6 Self-Assessment of Avoidable Mortality Report (due 31st Jan)**

NHS England wrote to all Medical Directors on 17 December 2015 and asked all Trusts to complete an initial self-assessment of their avoidable mortality using the tool provided. NHS England is seeking to establish a standardise methodology for reviewing deaths in hospital with the aim of identifying themes for improvement within the organisation.

This information was submitted by the Trust for the 31st January 2016 deadline and we will welcome a standardised methodology as the existing toolkit was especially open to several interpretations.

For more information: <http://www.nursingtimes.net/clinical-subjects/patient-safety/national-review-of-avoidable-deaths-ordered-by-health-secretary/5081956.article>

**2.7 Update on the 2016/17 national tariff and current draft prices (11 Jan)**

Monitor has published a 2016/17 national tariff update and current draft prices to help with Trust’s planning. The draft prices include:

* proposed payment currencies
* the proposed tariff efficiency rate
* indicative prices for 2016/17

For more information: [https://www.gov.uk/government/publications/201617- national-tariff-payment-system-draft-prices](https://www.gov.uk/government/publications/201617-%09national-tariff-payment-system-draft-prices)

**2.8 NHS England announces preferred supplier of health and justice information services procurement (06 Jan)**

Patients in the Health and Justice Sector are set to benefit from improved continuous healthcare with a new contract being conditionally awarded to The Phoenix Partnership (TPP), to supply the Health and Justice Information system in places of detention. The new system will be launched from July 2016 and will mean patients in Prisons, Immigration Removal Centres, Youth institutes and Secure Children’s homes will no longer have to wait for their medical records to be faxed over by their GP. They will now, for the first time, be able to register for General Medical Services with healthcare providers in their secure facility. Health Care Providers will then have access to the patient’s community records and those with complex health and social needs will benefit from continuous care that is managed faster and more appropriately. These records can then be securely transferred back to a GP when the patient returns to the community, which will allow patients to benefit from uninterrupted care for long term conditions.

For more information: <https://www.england.nhs.uk/2016/01/health-and-justice-information-services/>

**2.9 Prime Minister pledges a revolution in mental health treatment (11 Jan)**

The Prime Minister has announced almost a billion pounds of investment to enhance mental health services across the country. The plans are to include:

* £290 million to provide specialist care to mums before and after having their babies
* first ever waiting time targets to be introduced for teenagers with eating disorders and people experiencing psychosis
* nearly £250 million for mental health services in hospital emergency departments
* over £400 million to enable 24/7 treatment in communities as safe and effective alternative to hospital

For more information: <https://www.gov.uk/government/news/prime-minister-pledges-a-revolution-in-mental-health-treatment>

**2.10 Joint Targeted Area Inspections to be launched this year (14 Jan)**

The new Joint Targeted Area Inspections of services for vulnerable children and young people (JTAI) will launch this year, involving CQC, Ofsted, Her Majesty’s Inspectorate of Constabulary (HMIC) and Her Majesty’s Inspectorate of Probation (HMIP). From February, all four inspectorates will jointly assess how local authorities, the police, health, probation and youth offending services are working together in an area to identify, support and protect vulnerable children and young people. The new short inspections will allow inspectorates to be more responsive, targeting specific areas of interest and concern. They will also identify areas for improvement and highlight good practice from which others can learn. Each inspection will include a ‘deep dive’ element, with the first set, to be completed by Summer 2016, focusing on children at risk of sexual exploitation and those missing from home, school or care. Future areas of focus will be decided considering the views of stakeholders.

For more information: <https://www.gov.uk/government/news/joint-targeted-area-inspections-to-be-launched-this-year>

**2.11 Information for the NHSPRB: pay round 2016 to 2017 (15 Jan)**

Pay, terms and conditions for NHS staff on Agenda for Change contracts are determined by the government in the light of the recommendations from NHS Pay Review Body (NHSPRB), which takes evidence from the 4 UK governments, trade unions and NHS Employers before making its recommendations. This report is the Department of Health’s evidence to the NHSPRB for the 2016 to 2017 pay round.

The DH state that although the government has provided sufficient funding across the public sector to fund a pay award at an average of 1% in each of the four years from 2016/2017, the NHS must make better use of its £45 billion pay bill suggesting that NHS employers need to look carefully at a Total Rewards offer and how the pay and non-pay benefits employers can offer locally could help them recruit and retain the staff they need. They want NHS Employers and NHS trades unions to work together to reform AfC in a balanced and fair way to support new ways of working as identified in the Five Year Forward View and which help support the delivery of seven day services.

For more information: <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/492233/NHSPRB_report.pdf>

**2.12 NHS safeguarded against unsafe healthcare professionals (18 Jan)**

Healthcare regulators across the EU will now have to warn all other member states when a health professional is banned or their practice restricted. The measure is one of a series of stipulations ushered in on Monday 18 January that will protect the NHS from unsafe healthcare practitioners, as new EU rules governing the free movement of professionals come into force. Secured following significant lobbying by the NHS European Office, part of the NHS Confederation, the EU-wide warning system will prevent rogue professionals from “job shopping” around Europe, the head of the European Office have said. The Mutual Recognition of Professional Qualifications (MRPQ) Directive, agreed at European level at the end of 2013, also introduces stronger language controls and updated minimum training requirements for healthcare practitioners – safeguards the European Office worked hard to secure for the NHS. The updated legislation, which governs the free movement of professionals around the EU, will make it easier for qualified healthcare professionals to practise in other member states, while ensuring they are competent to do so through appropriate checks and procedures.

For more information: <http://www.nhsconfed.org/news/2016/01/new-eu-rules-for-healthcare-professionals-crossing-borders>

**2.13 Developing MH services for veterans: NHS England Publications Gateway reference: 04641 (26 Jan)**

With the NHS continuing to deliver improvements in the healthcare provided for the armed forces community, a national engagement on mental health services for veterans was launched in January.

Currently, NHS England commissions 12 mental health services across England for veterans. These were set up in 2010 following publication of the report *Fighting Fit: a mental health plan for servicemen and veterans* by former Surgeon-Commander, Dr Andrew Murrison MP. With the new contracting round due in 2016/17, this provides a significant opportunity to ask people about their views and experiences of existing services and to explore the reasons why some veterans have not sought or received support and treatment.

The engagement will run until 31 March 2016 and NHS England is encouraging responses from a range of stakeholders, including veterans who have or have had a mental health illness, their families and carers, service charities, commissioners and providers offering treatment and support in this area.

As CCGs are commissioners of the wider mental health services for their population (including veterans), it is highlighted how it is essential that the engagement considers the future of mental health services for veterans within this context. This will help to avoid ‘silo’ service development and maximise the value of these services into the future. The active contribution of CCGs is therefore encouraged to help inform the future commissioning of these services.

In addition to those Trusts providing mental health services for veterans, there are many services that provide a range of care and treatment for ex-service personnel who have or have had a mental health illness and all are urged to support and promote the engagement in our local areas.

For more information: <https://www.engage.england.nhs.uk/survey/veterans-mental-health-services>

**2.14 Productivity in NHS Hospitals – Lord Carter (6 Feb)**

Lord Carter has published his final report into hospital efficiency. The scope of his work to date has been focussed on the acute sector - he has now looked at the efficiency of all 136 **acute** trusts in England to come to a target savings figure. He estimates that if ‘unwarranted variation’ is removed from trust spend, that £5bn of savings could be saved by 2020. His final report gives a more detailed breakdown of how that figure could be achieved, as well as providing a range of recommendations in order to get there.

These recommendations are mixed between what the national bodies – in the main NHS Improvement – need to do and specific actions that providers will be required to take and in some cases be held to account for delivering. The report contains 15 main recommendations in total across different chapters, each with numerous sub-recommendations.

**In his letter to the secretary of state prefacing the report, Lord Carter outlines five key points**

1. The provision of high quality clinical care and good resource management go hand-in-hand.
2. A single reporting framework should be adopted across all trusts, which pulls together clinical quality and resource performance data and compares it to the ‘best in class’.
3. Delayed transfers of care have a significant impact on achieving efficiency savings.
4. The need for genuine local and national collaboration and coordination.
5. Rapid adoption of the review recommendations is paramount.

The introduction to the report outlines that of the £5bn savings potential, £3bn has been agreed in principle by the 136 acute trusts. It reiterates the NHS has to deliver the efficiencies of 2-3% per year, effectively placing a 10-15% real terms cost reduction target on trusts to achieve by April 2021. The £5bn of savings identified in the Carter report only go some way to achieving this.

For more information:

[**https://www.gov.uk/government/publications/productivity-in-nhs-hospitals**](https://www.gov.uk/government/publications/productivity-in-nhs-hospitals)

**2.15 Implementing the Forward View – supporting providers to deliver (11 Feb)**

Monitor has published *Implementing the Forward View: Supporting providers to deliver*.

This document is designed for NHS provider organisations. It is part of a series of planned Roadmaps that draw on messages from the NHS Planning Guidance and set out the key priorities for specific audiences in delivering high quality health and care this year and beyond.

Each Roadmap reflects a shared vision for the health and care sector as set out in the Five Year Forward View (5YFV) about the challenges ahead and the choices we face about the kind of health and care service we want and need in 2020.

In supporting providers to deliver Monitor:

• outline the challenges and the changes ahead

• describe a coherent set of activities for NHS providers in the coming years

• show how providers across the country are beginning to deliver these

• outline the support providers can expect from NHS Improvement

For more information:<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/499664/Summary_provider_roadmap_11feb.pdf>

**2.16 The Mental Health Five Year Forward View – Taskforce Report (15 Feb)**

This is the final report of the independent taskforce on mental health chaired by Paul Farmer, CEO of London MIND. The report of the Mental Health Taskforce sets out the start of a **ten year journey** of transformation, commissioned by Simon Stevens on behalf of the NHS. In a wide ranging package of recommendations, it proposes a three-pronged approach to improving care through prevention, the expansion of mental health care such as seven day access in a crisis, and integrated physical and mental health care. The report concludes that mental health has not had the priority awarded to physical health, has been short of qualified staff and has been deprived of funds and emphasises the importance of providing equal status to mental and physical health, equal status to mental health staff and equal funding for mental health services as part of a triple approach to improve mental health care – a fresh mind-set for mental health within the NHS and beyond.

For more information: See the full report in Appendix 2.