

**Appendix 1**

# Report to the Meeting of the

# Oxford Health NHS Foundation Trust

# Board of Directors

**23rd March 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 mid-February 2016 to mid-March 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 Improving quality in the English NHS: a strategy for action**

A new report from The King’s Fund says a national centre of expertise for quality improvement should be created to bring together an array of NHS agencies. The report sets out recommendations for a new NHS strategy for quality improvement – which it defines as designing and redesigning processes and systems to deliver better healthcare outcomes at lower cost. The report calls for expertise in quality improvement and leadership development to be brought together in a single centre which could also provide advice on the implementation of the Carter review of NHS productivity, adding that the logical place to put the new centre would be within NHS Improvement.

<http://www.kingsfund.org.uk/publications/quality-improvement>

**2.2 NHS staff survey results revealed**

The results of the 2015 NHS staff survey have been published. Headline findings suggest: improvements in motivation and engagement; apparent increase in bullying; apparent increase in stress; and apparent increase in concern about staff numbers. The number of staff recommending their organisation as a place to work has increased since 2014, following a generally improving trend since 2011. The proportion of staff reporting that they have witnessed errors and incidents is the lowest it has been since 2011 – however a quarter of staff witnessed an error that could have harmed patients or service users, and only 39% of staff agreed that they felt satisfied with the quality of care they provide to patients.

<http://www.nhsstaffsurveys.com/Page/1010/Home/NHS-Staff-Survey-2015/>

**2.3 Health and wellbeing boards (HWBs)** – Engaging effectively with providers

HWB’s have an important role to play in bringing together all the partners in the local health and care economy to focus on strategic priorities to improve health outcomes. NHS providers have a wealth of experience and expertise to offer in reshaping care.

If HWBs wish to transform, reconfigure and integrate their local health and social care services to improve local population health and wellbeing, the evidence to date clearly shows that meaningful engagement with providers is essential.

This briefing, co-produced by the Local Government Association (LGA), NHS Providers and Monitor, highlights some of the methods that HWBs are using to systematically and effectively engage with NHS providers and the wider provider community, and also presents some key learning from areas where engagement and genuine partnership working is leading to improved health outcomes in local areas.

<http://www.local.gov.uk/documents/10180/7632544/L16-5+HWBs+engaging+effectively+with+providers/5faeded5-feb8-4af9-86a6-b0dc4cb5ef9b>

**2.4 Never events.** More than 1,000 NHS patients in England in the past four years have suffered from medical mistakes so serious they should never happen, according to analysis by the Press Association. The analysis showed there were:

* 254 never events from April 2015 to the end of December 2015
* 306 never events from April 2014 to March 2015
* 338 never events from April 2013 to March 2014
* 290 never events from April 2012 to March 2013

NHS England insisted never events were rare - affecting one in every 20,000 procedures - and that the majority of the 4.6 million hospital operations each year were safe.

"Any organisation that reports a serious incident is also expected to conduct its own investigation so it can learn and take action to prevent similar incidents from being repeated."

<http://www.bbc.co.uk/news/health-35597244>

**2.5 2016/17 NHS standard contract.** The NHS standard contract is mandated by NHS England for use by NHS commissioners to contract with providers of all healthcare services other than primary care. NHS England has now published the draft contract for 2016/17, which will be under consultation until 16 March 2016. It outlines significant proposed changes to how financial sanctions are applied to core access standards, as well as several modifications made in order to ensure that the contract is consistent with changes to national legislation.

<https://www.england.nhs.uk/nhs-standard-contract/16-17/>

**2.6 Agency working.** From 1 April 2016, all trusts in scope of the agency rules will be required to use Monitor/TDA approved frameworks for the procurement of all agency staff (nurses, doctors, other clinical and non-clinical staff). This is an extension of the existing requirement to procure all nursing staff via approved framework agreements.

Guidance for framework operators, setting out the measures they need to put in place, now and in the future, to secure approval from Monitor/TDA have been published.

In particular, they must commit to delivering as soon as possible (and by 1 November at the very latest) frameworks that fully embed the price caps, and maximum pay rates for the worker in line with standard NHS rates.

<https://www.gov.uk/guidance/rules-for-all-agency-staff-working-in-the-nhs#agency-price-caps-update-new-framework-arrangements>

**2.7 NHS Shared Planning Guidance.** The leading national health and care bodies in England have come together to publish ‘Delivering the Forward View: NHS Shared Planning Guidance 2016/17 – 2020/21’, setting out the steps to help local organisations deliver a sustainable, transformed health service and improve the quality of care, wellbeing and NHS finances.

It is published by NHS England, NHS Improvement (the new body which will bring together Monitor and the NHS Trust Development Authority), the Care Quality Commission, Public Health England, Health Education England and NICE – the bodies which developed the Five Year Forward View in October 2014.

The planning guidance is backed up by £560 billion of NHS funding, including a new Sustainability and Transformation Fund which will support financial balance, the delivery of the Five Year Forward View, and enable new investment in key priorities

<https://www.england.nhs.uk/ourwork/futurenhs/deliver-forward-view/>

**2.8 Clinical Negligence Scheme for Trusts Consultation.** The Clinical Negligence Scheme for Trusts Consultation document is now available for consideration. It sets out potential approaches to setting contributions for Members from April 2017. The Consultation is designed to reflect the concerns of Members and provides the necessary prompts to help lead to an effective set of principles for operating a scheme which supports the provision of clinical services across the NHS.

Consultation responses should be submitted by noon on 17th May 2016 and the results will be analysed in May and the final proposals will be subject to Department of Health review and modelling in June-July. A formal response to the Consultation will be published later in the year.

<http://www.nhsla.com/CurrentActivity/Pages/News.aspx>

**2.9 Old problems, new solutions: improving acute psychiatric care for adults in England:** **final report.** This report, from an independent commission, highlights system-wide problems in mental healthcare in England including variable quality of care on inpatient units, inadequate availability of inpatient care or alternatives to inpatient admission, and patients remaining in hospital for longer than necessary due to inadequate residential provision. It recommends significant changes to how services are commissioned, organised and monitored across the whole mental health system. It also calls for faster access to acute care and an end to sending severely-ill mental health patients long distances for treatment.

<http://media.wix.com/ugd/0e662e_6f7ebeffbf5e45dbbefacd0f0dcffb71.pdf>

**2.10 Quarterly report on the performance of the NHS foundation trusts and NHS trusts: 9 months ended 31 December 2015**. This analysis of NHS providers' operational and financial performance shows the sector as a whole made £741 million in efficiency savings between April and December 2015. However, the report finds that NHS providers are under sustained pressure from an increase in demand for care, issues with discharging medically fit patients, and high costs. As a result, many providers missed several national waiting times standards, such as the A&E performance measure, in the last 3 months of 2015. In addition, the sector as a whole reported a deficit of £2.26 billion in the 9 months to the end of December 2015

<https://www.gov.uk/government/publications/nhs-foundation-trusts-quarterly-performance-report-quarter-3-201415>

**2.11 Summary of 2016/17 GMS contract negotiations.** The Government, NHS England and the BMA’s General Practitioners Committee have agreed changes to the GP contract in England. The new contract will see an investment of £220m for 2016 to 2017, part of which will provide a pay uplift of 1% for GPs. This note sets out a summary of the key changes to the General Medical Service (GMS) contract in England for 2016/17

<http://www.nhsemployers.org/~/media/Employers/Documents/Primary%20care%20contracts/GMS/Summary%20GMS%20contract_Le1361_1.pdf>

**2.12 Implementing the Forward View: Supporting providers to deliver.** A joint report outlines key priorities for NHS provider organisations in delivering high quality health and care in 2016 and beyond. The report: outlines the challenges and changes ahead; describes a coherent set of activities for NHS providers in the coming years; shows how providers across the country are beginning to deliver these; and outlines the support providers can expect from NHS Improvement.

<https://www.gov.uk/government/publications/implementing-the-forward-view-supporting-providers-to-deliver>

**2.13** [**What the planning guidance means for the NHS: 2016/17 and beyond**](http://www.kingsfund.org.uk/sites/files/kf/field/field_publication_file/Planning-guidance-briefing-Kings-Fund-February-2016.pdf). At a time when the NHS is planning for 2016/17 and beyond, this King's Fund briefing considers some of the key publications and policy announcements that have come out in the wake of the 2015 Spending Review and offers a commentary on what they might mean for the future landscape of the NHS.

<http://www.kingsfund.org.uk/sites/files/kf/field/field_publication_file/Planning-guidance-briefing-Kings-Fund-February-2016.pdf>

**2.14** **Time for change, the challenge ahead.** This report by Sir Stephen Bubb follows on from his original report into the Winterbourne View scandal. His recommendations included radical changes to the way the nation treats people with learning disabilities. He now concludes that subsequent proposals to deliver these changes are based on over-optimistic assumptions and he demands the appointment of a Learning Disabilities Commissioner who would have a statutory duty to promote, enhance, and protect the rights of people with learning disabilities and their families in England and ensure the delivery of the reforms.

<https://www.acevo.org.uk/sites/default/files/ACEVO_report_TCA_final_web.pdf>