

**Report to the Meeting of the**

**Appendix to
CEO report
BOD 91/2017**

(agenda item: 04)

# Oxford Health NHS Foundation Trust

# Board of Directors

**26th July, 2017**

**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 NHSI, the Care Quality Commission, NHS England, 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-June 2017 to mid-July 2017 and includes noteworthy contributions covered in the media and by health think tanks.

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 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 any 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.

The Executive team meeting agenda 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 either through the report itself or via the relevant Board reports of individual Executives.

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.

**Author:** Kerry Rogers, Director of Corporate Affairs & Company Secretary

**Lead Executive:** Kerry Rogers, Director of Corporate Affairs & Company Secretary

**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 NHSI, NHS England, the Care Quality Commission 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 where necessary be received by the Executive Team Meeting to ensure timely updates, 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.

1. **LEGAL/POLICY UPDATES**
	1. **NHS Providers welcomes support for Trusts to improve staff retention**

The National Health Executive reports that a major new programme to drive better staff retention in trusts across England has been launched by NHS Improvement. The regulator hopes the project will reduce the rates of people leaving the NHS workforce by 2020. The programme will support trusts by providing a series of masterclasses for directors of nursing and HR to discuss ways to reduce staff leaving trusts. The organisation will also work alongside NHS Employers and look into how the current national retention programme can be built on and improved. The programme will start with a group of 20 providers, with one cohort aimed at providers with above average nurse leaving rates and one at mental health trusts with above average leaving rates for clinical staff.

<http://www.nationalhealthexecutive.com/Health-Care-News/nhsi-to-tackle-staff-retention-challenges-with-new-programme?dorewrite=false>

**OH position: We are pleased this initiative is focusing on areas where retention is most difficult and that it is recognised this includes in mental health. The Board’s CEO update report highlights the work being prioritized internally but until nationally the underlying issues driving retention problems are addressed, including the pay cap and the unsustainable workplace pressures, these approaches will only have a limited impact.**

* 1. **Health Building Note: Facilities for child and adolescent mental health services (CAMHS)**

The Department of Health published a Health Building Note (HBN) which provides planning guidance specific to CAMHS in-patient accommodation.

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/623995/Facilities_child_adolescent_mental_health_services_CAMHS_HBN0302.pdf>

* 1. **Delayed Transfers of Care**

In a written ministerial statement Health Secretary Jeremy Hunt announced (on 3 July 2017) measures to support the NHS and local government in reducing delays for people being discharged from hospital to local social care services.

The measures include:

* local authorities agreeing with local NHS organisations on the contribution they will make to reducing the number of delayed transfers of care in their local areas
* a performance dashboard showing how health and social care partners in every local authority area in England are performing against a number of metrics, including: delayed transfers of care, emergency admissions, length of stay in hospital, the number of people still at home 90 days after being discharged from hospital
* the Integration and Better Care Fund Planning Requirements 2017 to 2019, which set out how the Better Care Fund Planning process will operate

<http://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2017-07-03/HCWS24/>

**OH position: The Trust is currently working with system partners to manage the DToC situation in particular in Oxfordshire, and to also mitigate the impact of the risk share agreement as part of contract arrangements. We await publication of the measures of support in order to understand options to assist improvement.**

* 1. **CQC to conduct 12 local system reviews of health and social care**

CQC has been asked by the Secretary of State for Health and the same for Communities and Local Government to undertake a programme of local system reviews of health and social care in 12 local authority areas.

These reviews, exercised under the Secretaries of State's Section 48 powers, will include a review of commissioning across the interface of health and social care and an assessment of the governance in place for the management of resources.

The CQC will look specifically at how people move between health and social care, including delayed transfers of care, with a particular focus on people over 65 years old. The review will not include mental health services or specialist commissioning but, through case tracking, will look at the experiences of people living with dementia as they move through the system.

The purpose of the reviews is to provide a bespoke response to support those areas facing the greatest challenges to secure improvement. On completion of the review, findings will be reported to each local authority area’s health and wellbeing board.

The 12 areas being reviewed are:

* Birmingham
* Bracknell Forest
* Coventry
* East Sussex
* Halton
* Hartlepool
* Manchester
* Oxfordshire
* Plymouth
* Stoke
* Trafford
* York

**OH position: The Director of Adult Services at OCC has confirmed the CQC have advised that a letter will be issued shortly giving an overview of the process. It is confirmed that the process will take 10 - 14 weeks end to end with an ambition to complete all 12 reviews by the end of November 2017.**

* 1. **State of the NHS Provider Sector Report**

NHS Providers published The State of the NHS Provider Sector Report which concludes that the impact of rapidly rising demand, workforce shortages and the failure of funding to get through to the frontline means core mental health services are being overwhelmed.

<https://nhsproviders.org/state-of-the-provider-sector-07-17>

**2.6 CQC –‘state of care in mental health services’**

On 20th July, CQC has published a [new report detailing the findings from their comprehensive inspections of specialist mental health services over the last three years](http://www.cqc.org.uk/publications/major-report/state-care-mental-health-services-2014-2017).

State of care in mental health services 2014 to 2017 captures learning from CQC inspections and findings from their role monitoring use of the Mental Health Act, as well as analysis of data from other sources.

At 31 May 2017, inspectors rated 68% of core services provided by NHS trusts and 72% of independent mental health locations as good; with 6% of NHS and 3% of independent core services rated as outstanding. But they also found too much poor care, and far too much variation in both quality and access across different services.

The report describes how inspectors found that the clear majority of services are caring and compassionate towards their patients, with 88% of NHS and 93% of independent services being rated as good in this key question. However, the report also identifies several areas of concern: difficulties around accessing services, physical environments not designed to keep people safe, care that is over-restrictive and institutional in nature, and poor recording and sharing of information that undermines the efforts of staff to work together to make sure that people get the right care at the right time.

**OH position: The Trust will review the report alongside its own CQC inspection findings to establish learning and improvement opportunities.** **We will continue to seek to identify good practice, drive improvement and take action to improve where necessary.**

**2.7 Changes in how the CQC regulates healthcare**

On 12 June CQC published new information about regulating NHS trusts, alongside a new assessment framework for NHS healthcare organisations. The framework includes key lines of enquiry and prompts – which set out what they look at when inspecting services – as well as the characteristics of the ratings.

NHS trusts will be inspected under the new framework from now.

Diagram below shows how our ongoing monitoring and inspections work for NHS trusts.



They aim to inspect each trust at least once between June 2017 and spring 2019, and approximately annually after that. However, CQC may come back any time in the year if they think it is necessary. Their contact will be frequent and targeted. They will use information from their relationship management meetings and CQC Insight to inform discussion about when and what to inspect.

**Frequency of inspections of core-services and well-led**

CQC will use a trust’s previous ratings as a guide to setting maximum intervals for re-inspecting its core services alongside its inspection of the well-led key question. For example, they will re-inspect after:

• one year for core services rated as inadequate

• two years for core services rated as requires improvement

• three and a half years for core services rated as good

• five years for core services rated as outstanding

This is only a guide and CQC will also take into account other factors when deciding which core services to inspect. They will take into account the trust’s own assessment of the quality of its core services. If the trust tells CQC that services have improved, they will inspect them wherever they can.

<http://www.cqc.org.uk/guidance-providers/nhs-trusts/how-we-monitor-inspect-nhs-trusts>

**OH position: The Trust has yet to be issued with its PIR (with the exception of Learning Disability Step Down – Old regime) but is preparing via published guidance accordingly. We maintain regular face to face meetings with our relationship team through which progress against our improvement plans are overseen.**