

# Report to the Meeting of the

# Oxford Health NHS Foundation Trust

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**RR/App\_66(i)/2022**

# Board of Directors

**30th November 2022**

***READING ROOM PAPER***

***Corporate Affairs Reporting***

***LEGAL, REGULATORY AND POLICY UPDATE***

**SITUATION**

This report provides an update to inform the Board of Directors on recent regulation and compliance guidance issued by such as NHS England, the Care Quality Commission and other relevant bodies where their action/publications have a consequential impact on the Trust, or an awareness of the change/impending change is relevant to the Board of Directors. A section in the Addendum to pick up learning or consider a ‘True for Us’ position is also included to support development/improvement activity and any necessary focus of the Board and its committees.

Proposals regarding any matters arising out of the regular Legal, Regulatory & Policy Update report will where necessary be received by the Executive Team to ensure timely updates, to enable the Trust to respond as necessary or where helpful to consultations and to ensure preparedness for the implications of, and compliance with changes in mandatory and best practice frameworks.

The principal Committee meetings of the Board are aligned to the cadence of the Board calendar, with the Chair of each Committee providing the Board with their latest updates and recommendations for approval. Following the interim findings of the Good Governance Institute as part of the external review against the Well Led framework into quality governance, the Chair of each Committee will from November adopt a ‘Three A’s’ approach to upward reporting to Board (Advice, Alert, Assurance). In addition to the matters in this report, and other Board reporting, the Board will need to use the Committee Chair’s updates to also influence its identification and assessment of new/emerging risk.

**BACKGROUND**

1. **Autumn Statement – NHSP Briefing**

This briefing outlines the key fiscal measures from the statement and NHSP’s analysis of the implications for the health and care sector. They have also included a brief overview of the Office for Budget Responsibility’s (OBR) economic and fiscal outlook.

[**autumn-2022-otdb.pdf (nhsproviders.org)**](https://nhsproviders.org/media/694540/autumn-2022-otdb.pdf)

1. **NHS England’s new operating framework**

The document sets out how NHS England (NHSE), integrated care boards (ICBs), and providers will work together in the new statutory framework created by the Health and Care Act 2022. This framework (previously referred to as an ‘operating model’) has four core foundations, which define NHSE’s:

• Purpose

• Areas of value

• Leadership behaviours and accountabilities

• Medium-term priorities and long-term aims

NHSE’s new framework helpfully clarifies the respective roles and accountabilities of providers, ICBs, and NHSE’s national and regional teams. This long-awaited new operating framework signals a clear shift in mindset and approach for NHSE. It makes a defined commitment to cultural and behavioural shift, which should contribute to a constructive relationship with the provider sector.

[**On the day briefing: NHS England's new operating framework - NHS Providers**](https://nhsproviders.org/resources/briefings/on-the-day-briefing-nhs-englands-new-operating-framework)

**Trust Position: While many of the formal powers and accountabilities that NHSE has held historically will remain broadly the same, NHSE has committed to a number of things which include a proportionate and streamlined approach to oversight and performance management between integrated care boards (ICBs) and NHS England, using the System Oversight Framework to avoid duplication and reduce unnecessary bureaucracy.**

**It is clear that we will retain our statutory responsibilities for the delivery of safe, effective, efficient, high-quality services and will be required to continue to comply with the provider licence which we assert compliance with annually. We will be required as a provider to comply with Care Quality Commission (CQC) standards and NHS planning guidance requirements, and to contribute to effective system working via ICS strategies and plans. We remain accountable to people, communities, services users, Councils of Governors and ICS partners. We are accountable to ICBs for ‘business as usual’ delivery of services and performance and are accountable to NHSE as regulator by escalation/ exception or agreement with ICB. The Trust is currently in segment 2, and NHSE provides support for organisations in segments 3 and 4.**

NHS England (NHSE) has published three sets of documents that were consulted on earlier this year:

* A consultation on changes to the NHS provider licence. The consultation will run for six weeks, closing on 9 December 2022.
* A new code of governance for trusts, addendum to ‘your statutory duties’, and guidance on good governance and collaboration.
* A separate consultation on changes to the NHS enforcement guidance, setting out how NHSE intends to deal with breaches of the provider licence. This consultation also closes on 9 December.

The need to change the licence has arisen from changes to the statutory and operating environment, including a shift of emphasis from economic regulation and competition to system working and collaboration. The proposed changes will bring the licence up to date, reflecting the new legislation and supporting providers to work effectively as part of integrated care systems (ICSs).

The three guidance documents underpinning the provider licence were consulted on earlier this year and have been published alongside NHSE’s response to that consultation.

The revised enforcement guidance describes NHS England’s intended approach to using its enforcement powers in relation to integrated care boards (ICBs), NHS foundation trusts and trusts, licensed independent providers of NHS services, and licensed NHS controlled providers. It explains the regulatory and statutory processes in the event of enforcement action and subsequent rights of appeal. See the next two items for the detail of the enforcement guidance and governance consultations.

[**2022-10-28-next-day-briefing-provider-licence-etc.pdf (nhsproviders.org)**](https://nhsproviders.org/media/694395/2022-10-28-next-day-briefing-provider-licence-etc.pdf?utm_campaign=1115969_Next%20day%20briefing%3A%20NHS%20England%20consultations%20on%20changes%20to%20provider%20licence%20and%20on%20revised%20NHS%20enforcement%20guidance%2C%20and%20published%20governance%20documents&utm_medium=email&utm_source=NHS%20Providers%20%28Policy%20and%20networks%29&Organisation=Oxford%20Health%20NHS%20Foundation%20Trust&dm_i=52PX,NX35,13C8U6,2W6GF,1)

[**Consultation for changes to the NHS provider licence - NHS England - Citizen Space**](https://www.engage.england.nhs.uk/consultation/changes-to-the-nhs-provider-licence/?utm_campaign=1115969_Next%20day%20briefing%3A%20NHS%20England%20consultations%20on%20changes%20to%20provider%20licence%20and%20on%20revised%20NHS%20enforcement%20guidance%2C%20and%20published%20governance%20documents&utm_medium=email&utm_source=NHS%20Providers%20%28Policy%20and%20networks%29&Organisation=Oxford%20Health%20NHS%20Foundation%20Trust&dm_i=52PX,NX35,13C8U6,2W60K,1)

**Trust Position: The provider licence consultation document should be read in conjunction with the current Risk Assessment Framework and reporting manual for independent sector providers of NHS services (which will be updated and consulted on later this fiscal year). The new condition regarding expectations of working together across the ICS to deliver on core system objectives includes planning, service improvement and delivery, to include delivery of financial objectives and system workforce plans.**

**The cost of complying with digital obligations is likely to be challenging but we will need to understand the risks to this if these suggested changes survive the consultation.**

1. **NHS enforcement guidance**

*NHS England, 27 Oct 2022*

NHS England has updated its Enforcement guidance to reflect the Health and Care Act, 2022 and current practice. The revised guidance sets out NHS England’s approach to enforcement of integrated care boards and providers. NHS England has a statutory duty to consult on the proposed changes to the Enforcement guidance. It explains the regulatory and statutory processes in the event of enforcement action and subsequent rights of appeal.

**Consultation:** [**https://www.england.nhs.uk/publication/consultation-on-the-revised-nhs-enforcement-guidance/**](https://www.england.nhs.uk/publication/consultation-on-the-revised-nhs-enforcement-guidance/)

**Draft guidance:** [**https://www.england.nhs.uk/publication/nhs-enforcement-guidance-draft/**](https://www.england.nhs.uk/publication/nhs-enforcement-guidance-draft/)

**Trust Position: NHS Providers will collate a response to the consultation on behalf of all providers. While the enforcement guidance is clear on the steps NHSE would take in the event of a suspected breach of licence by a provider, or a failure by an ICB to discharge its duties, it is less clear how a breach of a licence condition would be determined. This is particularly pertinent when it comes to breaches of conditions which would be more challenging to enforce, such as the new cooperation condition. There may also be further areas still to clarify, for example, with regards to decision-making responsibilities where providers (such as ambulance trusts) span multiple ICBs.**

1. **NHS England governance consultations**

In the Legal and Regulatory update to Board in the summer various governance consultations were highlighted. Following the periods of consultation final versions have now been published.

NHSE anticipate that over the coming months there will be a period of ‘bedding in’ and adjustment to the new approaches to working that the reforms have introduced. Based on the feedback NHSE will continue to work with trust and system leaders and other stakeholders to clarify key issues, identify any barriers and support trusts and governors to fulfil their roles and contribute to the objectives of ICSs. As part of this they will also continue to review national policy frameworks to ensure clarity around collaboration and the alignment of incentives to help achieve it.

* **Guidance on good governance and collaboration:** [**https://www.england.nhs.uk/publication/guidance-on-good-governance-and-collaboration/**](https://www.england.nhs.uk/publication/guidance-on-good-governance-and-collaboration/)

**Trust Position: The Trust’s success will increasingly be judged against our contribution to the objectives of the ICS in addition to our existing duties to deliver safe, effective care and effective use of resources. This guidance sets expectations of providers in terms of collaboration in respect of three key areas – engaging consistently in shared planning and decision-making, consistently take collective responsibility with partners for delivery of high quality and sustainable services across various footprints including system and place, and consistently taking responsibility for delivery of agreed system improvements and decisions.**

**Five characteristics of governance arrangements that providers must have in place to support effective collaboration are detailed.**

* **Code of governance for NHS provider trusts:** [**https://www.england.nhs.uk/publication/code-of-governance-for-nhs-provider-trusts/**](https://www.england.nhs.uk/publication/code-of-governance-for-nhs-provider-trusts/)

An updated code of governance for NHS provider trusts which sets out an overarching framework for the corporate governance of trusts. The new code will cover both foundation trusts and NHS trusts.

The code will come into effect from 1 April 2023 and replace the[**2014 NHS foundation trust code of governance**](https://www.gov.uk/government/publications/nhs-foundation-trusts-code-of-governance)**.**

The Code of Governance helps Trusts deliver effective corporate governance, and helps them discharge their duties in the best interests of patients, service users and the public. It sets out a common overarching framework for the corporate governance of trusts that complements the statutory and regulatory obligations they have. Key points of the new Code are**:**

* Corporate governance is the means by which boards lead and direct their organisations so that decision-making is effective, risk is managed and the right outcomes are delivered.
* In the NHS this means delivering high quality services in a caring and compassionate environment while collaborating through system and place-based partnerships and provider collaboratives to integrate care.
* Best practice is detailed in the following sections: board leadership and purpose, division of responsibilities, composition, succession and evaluation, audit, risk, internal control and remuneration.

**Trust position: The Trust is required to comply with each of the provisions of the code or, where appropriate, explain in each case why the Trust has departed from the Code. The Director of Corporate Affairs and Company Secretary ensures the principal of comply or explain is adopted annually as part of the Annual Report submission to Parliament. To meet the requirements of ‘comply or explain’ each trust must comply with each of the provisions of the code (which in some cases will require a statement or information in the annual report, or provision of information to the public or, for foundation trusts, governors or members) or, where appropriate, explain in each case why the trust has departed from the code.**

**Departure from the specific provisions of the code may be justified in particular circumstances. Reasons for non-compliance with the code should be explained, with the trust illustrating how its actual practices are consistent with the principle to which the particular provision relates.**

* **Addendum to your statutory duties – reference guide for NHS foundation trust governors:**

As reported in the update report to Board in July 22, this draft addendum to the present guidance for governors places the existing, legal duties of councils of governors (**unchanged by the 2022 Act**) into the context of system working.  It addresses holding the non-executive directors (NEDs) to account for the performance of the board, representing the interests of trust members and the public, and approving or not, significant transactions, mergers, acquisitions, separations or dissolutions. This addendum only applies to a council of governors’ role within its own foundation trust’s governance.

[**https://www.england.nhs.uk/publication/addendum-to-your-statutory-duties-reference-guide-for-nhs-foundation-trust-governors/**](https://www.england.nhs.uk/publication/addendum-to-your-statutory-duties-reference-guide-for-nhs-foundation-trust-governors/)

1. **Transactions Guidance - Assuring and supporting complex change**

On 11 October NHS England (NHSE) published its updated transactions guidance, alongside ten appendices and its response to the consultation on the guidance. For the first time, the Guidance has been issued in separate parts under an overall heading of “Assuring and Supporting Complex Change” for each of the various types of NHS transactions which are subject to NHSE’s scrutiny:

1. Statutory transactions - mergers, acquisitions, Foundation Trust dissolutions and separations.
2. Certain significant service contracts - contracts which expose a Trust or system to significant incremental risk, for instance, where there is material change to the scale or scope of the Trust’s activity.
3. Commercial transfers - material sale and purchase agreements short of a whole entity transfer.
4. Forming or changing a subsidiary - subsidiaries and corporate JVs being formed or materially changed. No changes were made to the existing 2018 guidance meaning that all such transactions remain reportable. This part of the Guidance will be updated later in 2022.
5. Novel, contentious and repercussive financial arrangements - all such arrangements are reportable.
6. Capital proposals are not within scope; they are assured under a separate approvals process.
7. Service reconfiguration - this part of the Guidance comprises the existing NHSE guidance titled “Planning, assuring and delivering service change for patients”.

NHSE will now apply an overall test as to whether the deliverable benefits of a transaction materially outweigh the costs and risks. The benefits to patients and the population are defined widely in the Guidance and are broader than direct benefits to patient outcomes. For transactions classed as ‘significant’, benefits will be assessed at both stages of the review process, at strategic case and then at full business case stage and must be underpinned by detailed plans.

In recognition of the role of ICBs and the wider system, the Guidance introduces an expectation that Trusts and system partners will work together constructively when developing transaction proposals. System support for a proposed transaction will be a key consideration in NHSE’s review process

**Trust Position: The Trust will be required to incorporate the obligations within the transaction guidance in its development of strategic outline and final business cases for future proposals, including the Warneford Park Development cases currently in development.**

[**NHS England » Assuring and supporting complex change**](https://www.england.nhs.uk/system-and-organisational-oversight/assuring-and-supporting-complex-change/)

1. **Guidance for delegation and joint working arrangements**

Statutory guidance outlining options for how NHS organisations – NHS England, integrated care boards, and NHS providers – can exercise some of their statutory functions via delegation or via joint working arrangements under the Health and Care Act 2022.

**NHS Providers briefing:** [**https://nhsproviders.org/resources/briefings/on-the-day-briefing-guidance-for-delegation-and-joint-working-arrangements**](https://nhsproviders.org/resources/briefings/on-the-day-briefing-guidance-for-delegation-and-joint-working-arrangements)

**Trust Position: There are risks associated with moves to delegate or jointly exercise statutory functions: for example, around how best to embed high-quality governance. It is for local trusts and partners to fully assess the opportunities and risks these collaborative mechanisms present in their contexts. The Board will need to be fully engaged in discussions and ensure robust oversight of any delegated or jointly exercised functions on an ongoing basis. NHSE plans to undertake further engagement work in the second half of 2022/23 focused on implementation of delegation or joint exercise approaches between ICBs and trust(s).**

1. **The State of Care report: what you need to know**

The State of Care report outlines the severe pressures facing the sector and the increasingly intolerable conditions under which staff are doing their utmost for patients, but which are leading to record vacancies, slipping standards, and patients not always receiving the care they need.

[**The State of Care report: what you need to know | NHS Confederation**](https://www.nhsconfed.org/publications/state-care-report?utm_campaign=1103331_Chairs%20and%20non-executives%20bulletin%20-%2031%20October%202022&utm_medium=email&utm_source=NHS%20Confederation&dm_i=6OI9,NNC3,4L0ZPM,2XBTO,1)

1. **Abuse at mental health hospital revealed by BBC secret filming**

The BBC Panorama went undercover to report that patients at Greater Manchester Mental Health NHS Foundation Trust were put at risk due to the “toxic culture” at its medium secure unit, the Edenfield Centre. It was the subject of an undercover investigation by a journalist who worked for three months in the hospital as a healthcare support worker. During that time, he used a hidden camera to record how patients were treated on several different wards.

The footage made for incredibly distressing viewing. There were multiple examples of extremely vulnerable patients being treated without dignity and respect, together with patients being subjected to both physical and emotional abuse.

[**https://www.bbc.co.uk/news/uk-63045298**](https://www.bbc.co.uk/news/uk-63045298)

**Trust Position: As the CEO Report stated, as an organisation we cannot ever afford to be complacent or tolerate behaviours that are not in keeping with our values. It is therefore essential that when any of us see things that are wrong or incidents when the care being provided falls below the standards we should expect we speak out.**

**All staff were invited to a special CEO webinar for an online listening event following the distressing Panorama documentary. The Quality Committee and the Board have both received assurance reports in November, the latter also addressing the National Mental Health Director’s letter which asked for immediate action to review safeguarding and speak up systems.**

1. **National standards for healthcare food and drink**

*NHSE*  have highlighted the importance of all healthcare organisations seeing the intrinsic value in the view of ‘food as medicine’ and that it remains a standing item on the board agenda. She standards state that senior NHS leaders should be held accountable for the standard and quality of food served in their organisation, and patient and staff nutrition must be prioritised.

[**https://www.england.nhs.uk/wp-content/uploads/2022/11/B0508-i-National-standards-for-healthcare-food-and-drink-Nove-2022.pdf**](https://www.england.nhs.uk/wp-content/uploads/2022/11/B0508-i-National-standards-for-healthcare-food-and-drink-Nove-2022.pdf)

**Trust Position: The Food Strategy is on the workplan of the People Leadership and Culture Committee, and is on the agenda for its next meeting with an interim report going to the last meeting.**

1. **Policy Briefing: The Ockenden review**

This briefing examines the Ockenden review through the lens of race equality and makes recommendations for best practice in the future. Key themes include lessons on 1. Representation of families from ethnic minority and socially deprived backgrounds; 2. Workforce representation and culture.

[**https://www.nhsrho.org/publications/policy-briefing-the-ockenden-review/**](https://www.nhsrho.org/publications/policy-briefing-the-ockenden-review/)

1. **Procurement Bill 2022: focus on conflicts of interest**

As with many of the clauses set out in the recent Procurement Bill, at first glance the provisions on conflicts of interest appear to be broadly similar to those we are more familiar with in the Public Contracts Regulations 2015.  Clauses deal with the concept of conflicts of interest, with one setting out contracting authorities’ duty to mitigate a conflict, including a power to exclude a supplier, and clause 76 requires authorities to prepare a “conflicts assessment” before launching a procurement - putting into legislative form what was already best practice in preparing for procurement.

Whilst in many ways the conflicts of interest clauses in the Bill provide a fairly common sense approach to the existing PCR regime and the realities of dealing with conflicts in practice, both authorities and suppliers would benefit from further legislative certainty, in particular regarding the interaction between the conflicts clauses and the exclusion mechanisms in the Bill.

[**The Procurement Bill: summary guide to the provisions - GOV.UK (www.gov.uk)**](https://www.gov.uk/government/publications/the-procurement-bill-summary-guide-to-the-provisions)

**Trust Position: The Senior Strategic Procurement Manager has highlighted that on the subject of Conflict of Interest, policy has retained the conflict of interest sections within tender documents for further assurance regardless of what the Procurement Bill may indicate. Even under new Procurement rules, the Trust has a duty of transparency and this provides a useful mechanism to ensure that suppliers and also evaluators are open about any business relationships and interest that they have with bidders.**

**RECOMMENDATION**

The Board of Directors is invited to consider and note the content of the report and where relevant, members should each be satisfied of their individual and collective assurances and reassurances that the internal plans and controls in place to deliver or prepare for compliance against any of the Trust’s obligations are appropriate and effective.

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

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**Addendum A**

**AWARENESS/LEARNING/’TRUE FOR US’/THOUGHT PIECES**

**CQC Inspections and updates**

**CQC finds improvement in Hertfordshire Partnership’s child and adolescent mental health service, but more progress is needed**

*CQC, 11 Nov 2022*

CQC’s previous inspection of the service identified significant shortcomings, which led to it being rated inadequate. Following that inspection, CQC also served the trust a warning notice requiring it to improve care at Forest House. The latest inspection found enough improvement had been made for the service to be rated requires improvement.

<https://www.cqc.org.uk/press-release/cqc-finds-improvement-hertfordshire-partnerships-child-and-adolescent-mental-health>

**CQC publishes reports on mental health services for children and young people at Sheffield Children’s NHS Foundation Trust**

*CQC, 18 Nov 2022*

CQC carried out an inspection of child and adolescent mental health wards (CAMHS) and specialist community mental health services for children and young people in July. This was partly due to receiving concerns about the quality of care being provided in the CAMHS inpatient wards.

<https://www.cqc.org.uk/press-release/cqc-publishes-reports-mental-health-services-children-and-young-people-sheffield>

**Bracton Centre Medium Secure Unit, Oxleas NHS Foundation Trust**

*CQC, 24 Oct 2022*

The purpose of this focused inspection was to determine if the healthcare services provided were meeting the legal requirements of the Requirement Notice they issued in February 2022 and to find out if patients were receiving safe care and treatment. At this inspection CQC found that some improvements had been made, however the provider continued to be in breach of Regulation 17, Good Governance. They do not currently rate services provided in prisons.

<https://www.cqc.org.uk/location/RPGAB>

**Tees, Esk and Wear Valleys NHS Foundation Trust**

*CQC 28 Oct 2022*

Improvements in forensic inpatient or secure wards: <https://www.cqc.org.uk/press-release/cqc-finds-improvements-forensic-inpatient-or-secure-wards-tees-esk-and-wear-valleys>

*5 Oct 2022*, Told to make improvements to wards for people with a learning disability or autistic people: <https://www.cqc.org.uk/press-release/cqc-tells-tees-esk-and-wear-valleys-nhs-foundation-trust-make-improvements-wards>

**University Hospitals Birmingham NHS Foundation Trust pays fixed penalties of £8,000 for failures around consent**

*CQC, 7 Oct 2022*

CQC found failings by the trust in relation to the issue of consent, particularly when linked to mental capacity. These failings were in relation to the completion of training, and the conducting of oversight, audits and monitoring. The investigation found there were also failures in relation to the trust’s documentation around capacity assessments.

<https://www.cqc.org.uk/press-release/university-hospitals-birmingham-nhs-foundation-trust-pays-fixed-penalties-ps8000>

**Listening, Learning, Responding to Concerns Review: an update**

This is an independent review to identify improvements to how we learn from, respond to, and act on concerns. The review is in two phases. The CQC are now sharing further detail of phase 2 of the review. Running through the review will be a focus on inclusivity. This includes understanding whether race or any other protected characteristic has had any impact on how we treat information of concern.

[**https://www.cqc.org.uk/news/listening-learning-responding-concerns-review-update**](https://www.cqc.org.uk/news/listening-learning-responding-concerns-review-update)

**CQC announces independent review into handling of protected disclosures alongside wider review**

The Care Quality Commission (CQC) has announced an independent review into the handling of protected disclosures shared by Mr Shyam Kumar. This will be led by Zoë Leventhal KC. CQC has also announced a wider review on whether there are issues of culture, process or both within the organisation which need to be addressed.

[**https://www.cqc.org.uk/news/independent-review-handling-protected-disclosures-announced-alongside-wider-review**](https://www.cqc.org.uk/news/independent-review-handling-protected-disclosures-announced-alongside-wider-review)

**2021–2022 healthcare professional regulators’ whistleblowing report published**

*NMC and others (via King's Fund), 28 Sep 2022*

The joint whistleblowing disclosures report is part of a coordinated effort with seven other regulators to address serious issues that health and care professionals in the UK have raised. They acted on 152 whistleblowing disclosures in 2021–2022. The most common themes of the disclosures this year related to patient safety and care; leadership and management; health and safety; and behaviour.

[**https://www.nmc.org.uk/news/news-and-updates/20212022-healthcare-professional-regulators-whistleblowing-report-published/**](https://www.nmc.org.uk/news/news-and-updates/20212022-healthcare-professional-regulators-whistleblowing-report-published/)

**Maternity and neonatal services in East Kent: 'Reading the signals' report**

*DHSC, 19 Oct 2022*

[**https://www.gov.uk/government/publications/maternity-and-neonatal-services-in-east-kent-reading-the-signals-report**](https://www.gov.uk/government/publications/maternity-and-neonatal-services-in-east-kent-reading-the-signals-report)

Letter, NHS England, 20 Oct 2022, [**https://www.england.nhs.uk/publication/report-following-the-independent-investigation-into-east-kent-maternity-and-neonatal-services/**](https://www.england.nhs.uk/publication/report-following-the-independent-investigation-into-east-kent-maternity-and-neonatal-services/)

This report reconfirms the requirement for boards to remain focused on delivering personalised and safe care. Every board member must examine the culture within their organisation and how they listen and respond to staff. You must take steps to assure yourselves, and the communities you serve, that the leadership and culture across your organisation(s) positively supports the care and experience you provide.

**Court orders damages and civil penalties for unlawful NHS procurement**

The case centred on the use by three NHS Care Boards (the "Boards") of a framework agreement to award a contract to supply communications services. The claimant, Consultant Connect ("CC"), was able to successfully challenge the Boards' use of the framework to award a contract that CC would have had an opportunity to bid for had an advertised competitive process been run.

[**https://www.lexology.com/library/detail.aspx?g=e2a113a3-475e-469f-8f34-ca857173df74**](https://www.lexology.com/library/detail.aspx?g=e2a113a3-475e-469f-8f34-ca857173df74)

**State of Care 2021/22**

*CQC, 21 Oct 2022*

State of Care is the CQC's annual assessment of health care and social care in England. The report looks at the trends, shares examples of good and outstanding care, and highlights where care needs to improve. This year the assessment is that the health and care system is gridlocked and unable to operate effectively.

[**https://www.cqc.org.uk/publications/major-report/state-care**](https://www.cqc.org.uk/publications/major-report/state-care)

**NHS Providers briefing:** [**https://nhsproviders.org/resources/briefings/on-the-day-briefing-cqc-report-on-the-state-of-health-care-and-adult-social-care-in-england-202122**](https://nhsproviders.org/resources/briefings/on-the-day-briefing-cqc-report-on-the-state-of-health-care-and-adult-social-care-in-england-202122)

**CQC survey reports deteriorating experiences of NHS community mental health services**

*CQC, 27 Oct 2022*

The CQC has published its annual survey of people’s experiences of NHS community mental health services. The survey results show people’s experiences remain poor, areas that returned poor results historically have not improved and some have declined further. Access to care has deteriorated.

[**https://www.cqc.org.uk/press-release/cqc-survey-reports-deteriorating-experiences-nhs-community-mental-health-services**](https://www.cqc.org.uk/press-release/cqc-survey-reports-deteriorating-experiences-nhs-community-mental-health-services)

* Full survey report: <https://www.cqc.org.uk/publications/surveys/community-mental-health-survey>
* Trust benchmarking reports for the survey: [**https://nhssurveys.org/all-files/05-community-mental-health/05-benchmarks-reports/2022/**](https://nhssurveys.org/all-files/05-community-mental-health/05-benchmarks-reports/2022/)
* NHS Providers briefing:[**https://nhsproviders.org/resources/briefings/next-day-briefing-cqc-community-mental-health-survey-and-annual-mental-health-act-statistics**](https://nhsproviders.org/resources/briefings/next-day-briefing-cqc-community-mental-health-survey-and-annual-mental-health-act-statistics)

**A guide to developing integrated statutory and voluntary sector mental health services**

*Centre for Mental Health, 26 Oct 2022*

The NHS and the voluntary sector are increasingly expected to work together to deliver integrated mental health services. However, there has been a lack of guidance for NHS and VCS providers on how to successfully implement this integration. Our guide 'A working partnership' aims to fill that gap.

[**https://www.centreformentalhealth.org.uk/publications/working-partnership**](https://www.centreformentalhealth.org.uk/publications/working-partnership)

**Improving experience of care: A shared commitment for those working in health and care systems**

*NHS England, 27 Oct 2022*

This document is developed by the National Quality Board and builds on the previous Improving experiences of care document. It has been refreshed to align with the recent NQB overarching system publications. The updated version does not change the statutory responsibilities of individual organisations, nor undermine their independence, but highlights the strategic importance of working together.

[**https://www.england.nhs.uk/publication/improving-experience-of-care-a-shared-commitment-for-those-working-in-health-and-care-systems/**](https://www.england.nhs.uk/publication/improving-experience-of-care-a-shared-commitment-for-those-working-in-health-and-care-systems/)

**Rising living costs: The impact on NHS, staff and patients**

*NHS Providers, 30 Sep 2022*

NHS Providers have published a new survey of NHS trusts leaders on the impact rising living costs are having on the health service, staff and patients. All respondents are concerned about the mental, physical and financial wellbeing of staff as a result of cost of living pressures, and the majority (61%) report a rise in staff sickness absence due to mental health.

[**https://nhsproviders.org/rising-living-costs-the-impact-on-nhs-staff-and-patients**](https://nhsproviders.org/rising-living-costs-the-impact-on-nhs-staff-and-patients)

**See also: NHS Employers,** [**Good practice examples to support staff with cost of living**](https://www.nhsemployers.org/articles/good-practice-examples-support-staff-cost-living)

**Autistic people’s healthcare information strategy for England**

This document sets out an initial strategy for the development of information about the health of, and healthcare received by autistic people in England, from sources already collected or in the process of being established.

[**https://www.england.nhs.uk/publication/autistic-peoples-healthcare-information-strategy-for-england/**](https://www.england.nhs.uk/publication/autistic-peoples-healthcare-information-strategy-for-england/)

**Our plan for patients**

The government’s plans for the NHS and social care to deliver for patients. Key policies include: An expectation that anyone who needs an appointment should get one at a GP practice within 2 weeks; To help people get out of hospitals and into social care support, the government is launching a £500 million Adult Social Care Discharge Fund

[**https://www.gov.uk/government/publications/our-plan-for-patients**](https://www.gov.uk/government/publications/our-plan-for-patients)

[**https://www.gov.uk/government/news/health-and-social-care-secretary-sets-out-plan-for-patients-with-new-funding-to-bolster-social-care-over-winter**](https://www.gov.uk/government/news/health-and-social-care-secretary-sets-out-plan-for-patients-with-new-funding-to-bolster-social-care-over-winter)

[**https://nhsproviders.org/resources/briefings/next-day-briefing-government-policy-paper-our-plan-for-patients**](https://nhsproviders.org/resources/briefings/next-day-briefing-government-policy-paper-our-plan-for-patients)

**Building an organisational culture of continuous improvement**

This evaluation, which examined how five NHS trusts in England attempted to build a culture of continuous improvement, provides important lessons about how to plan and implement an organisation-wide approach to improvement.

[**https://www.health.org.uk/publications/long-reads/building-an-organisational-culture-of-continuous-improvement**](https://www.health.org.uk/publications/long-reads/building-an-organisational-culture-of-continuous-improvement)

**Mental Health Act community treatments orders (CTO) – focused visits report**

*CQC, 1 Nov 2022*

During these focused visits, we found that some patients appreciated the benefits of being on a CTO and most community mental health teams closely supervised patients on CTOs. However, there are some fundamental issues around the use of CTOs, for example: the disproportionate impact on Black patients; the family and patient involvement in CTOs varies; in some cases CTOs had been active for several years, with the patient not knowing how they could be taken off the CTO.

**Report:** [**https://www.cqc.org.uk/publication/cto-focused-visits**](https://www.cqc.org.uk/publication/cto-focused-visits)

**Narrative summary:** [**https://www.cqc.org.uk/news/mental-health-act-community-treatments-orders-focused-visits-report**](https://www.cqc.org.uk/news/mental-health-act-community-treatments-orders-focused-visits-report)

**Mental health pressures in England.**

This provides analysis on the pressures placed on mental health services, including access to services, workforce, and funding and is updated monthly and quarterly with new data.

[**https://www.bma.org.uk/advice-and-support/nhs-delivery-and-workforce/pressures/mental-health-pressures-data-analysis**](https://www.bma.org.uk/advice-and-support/nhs-delivery-and-workforce/pressures/mental-health-pressures-data-analysis)

**Safer care for all: Solutions from professional regulation and beyond**

The Professional Standards Authority (PSA), the oversight body for the health and care professional regulators and registers in the UK, has published a report which examines the major patient and service user safety issues from the perspective of professional regulation. The overall conclusion of the report is that the UK needs a more robust approach to ensuring that health and social care are safer for everyone.

[**https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/safer-care-for-all-solutions-from-professional-regulation-and-beyond.pdf?sfvrsn=9364b20\_4**](https://www.professionalstandards.org.uk/docs/default-source/publications/thought-paper/safer-care-for-all-solutions-from-professional-regulation-and-beyond.pdf?sfvrsn=9364b20_4)

[**https://www.lexology.com/library/detail.aspx?g=974df1f8-fa1b-4b10-a86f-dcc255562d0a**](https://www.lexology.com/library/detail.aspx?g=974df1f8-fa1b-4b10-a86f-dcc255562d0a)

**Building better health: exploring opportunities for healthcare estate under integrated care systems**

In July 2022, the Good Governance Institute and Primary Health Properties hosted a roundtable discussion to look at the opportunities for estates in integrated care to drive reform, inspire innovation and enable improvement. This long read summarises the discussion.

[**https://www.good-governance.org.uk/publications/news/building-better-health-exploring-opportunities-for-healthcare-estate-under-integrated-care-systems**](https://www.good-governance.org.uk/publications/news/building-better-health-exploring-opportunities-for-healthcare-estate-under-integrated-care-systems)

**Introducing Integrated Care Systems: joining up local services to improve health outcomes**

*National Audit Office, 14 Oct 2022*

This report examines the setup of ICSs and the risks they must manage. Unlike many NAO reports, this is not an assessment of whether the programme has secured good value for money to date. Instead, it is an assessment of where they are starting from and the challenges and opportunities ahead. We make recommendations intended to help manage those risks and realise those opportunities.

[**https://www.nao.org.uk/reports/introducing-integrated-care-systems-joining-up-local-services-to-improve-health-outcomes/**](https://www.nao.org.uk/reports/introducing-integrated-care-systems-joining-up-local-services-to-improve-health-outcomes/)

**A renewed vision for the NHS**

*NHS Confederation, 7 Oct 2022*

Key considerations to support planning for the future, including how Long Term Plan priorities may need to be adjusted post COVID-19.

[**https://www.nhsconfed.org/publications/renewed-vision-nhs**](https://www.nhsconfed.org/publications/renewed-vision-nhs)

**HIGH PROFILE FAILINGS – LEARNING/’TRUE FOR US’**

A number of high profile corporate governance failures and/or weaknesses continually litter the headlines and the events that damage such organisations do not just happen. They are commonly linked to boards being blind to the underlying risks that threaten their organisations and to the effectiveness of governance systems. Whilst these are predominantly headline news items with some containing merely allegations – they are presented to the Board in this report to stimulate consideration of the importance of corporate governance (and of perception) and to give due regard to there being any risk of it being ‘true for us’.

**CQC launches review of leadership and medical services at The Christie Foundation Trust. Inspectors make unannounced visit after concerns over culture. The Trust was previously under scrutiny over its handling of a major research project. The Care Quality Commission has launched a review of leadership at an “outstanding”-rated specialist trust, after receiving multiple concerns from whistleblowers. *(HSJ)***

The regulator was understood to have made an unannounced visit to The Christie Foundation Trust to inspect its medical services. The review was to also cover the trust’s overall leadership. *HSJ*understood the review was, at least, partly in response to the regulator receiving a number of concerns from whistleblowers about the trust’s leadership culture and behaviour of senior staff. It comes after the trust came under scrutiny from NHS England last year.

The reviews also criticised the trust’s reaction to staff who had raised concerns but failed to answer a key accusation that was made about the detriment suffered by whistleblowers. As previously reported, The Christie rejected instructions from NHS England to make a public apology about the findings of the previous reviews. Two prominent whistleblowers, a former project manager, and a former clinical director within the research division, have sought to raise concerns with various external authorities in recent months. They said “….. There are many staff who have had really bad experiences so we hope the CQC will take the time to listen to everyone.”

[**Multiple failings in trust’s handling of £20m Roche deal, leak reveals | HSJ Local | Health Service Journal**](https://www.hsj.co.uk/the-christie-nhs-foundation-trust/multiple-failings-in-trusts-handling-of-20m-roche-deal-leak-reveals/7029220.article)

[**North by North West: Long-awaited NHSE report fails to answer key question | Expert Briefing | Health Service Journal (hsj.co.uk)**](https://www.hsj.co.uk/expert-briefings/north-by-north-west-long-awaited-nhse-report-fails-to-answer-key-question/7031808.article)