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# Report to the Meeting of the

# Oxford Health NHS Foundation Trust

**BOD 11/2023**

(Agenda item: 14

# Board of Directors

**25th January 2023**

**Corporate Affairs Update Report**

**For: Awareness and Assurance**

**Executive Summary**

The Reading Room contains the detail of this regular report to inform the Board of Directors on recent legislation, regulation and compliance/policy guidance issued by bodies 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 and its committees’ business. This report covers the period since the last report to Board and includes any noteworthy contributions covered by health think tanks and a section in the Addendum to this report on learning / ‘True for Us’ considerations.

With regard to the concept of ‘True for Us’ and the section in the report; as I like to remind Board members, the effects of corporate failure cast a long shadow forward. In consequence each failure of a business becomes magnified in terms of the analysis of its impact and the mood to blame. The responsibility to avoid corporate failure lies with the directors who may or may not be able to take evasive action. As reported to the last meeting, it is intended the Corporate Affairs directorate will develop further the concept of ‘True for Us’ reviews in connection with corporate governance because failures contribute significantly to the collapse of our reputation but importantly enhance the effectiveness of risk and controls management. The process will support identification of warning signals to support the ongoing learning and development of successful mitigating actions and will be led by the Deputy Director of Corporate Affairs working closely also with the Chief Nurse’s team.

**Risk Management**

The Code of Governance for the NHS replicates Provision 28, UK Corporate Governance Code (July 2018) and states that “*the board should carry out a robust assessment of the company’s emerging and principal risks. The board should confirm in the annual report that it has completed this assessment, including a description of its principal risks, what procedures are in place to identify emerging risks, and an explanation of how these are being managed or mitigated*.”

Included in the Reading Room is the latest iteration of the Board Assurance Framework to ensure Board members continue to have a universal view of the Trust’s strategic risk profile. This is the January 2023 edition of the BAF which has not changed significantly given there has not been a suite of Board Committee meetings since the last meeting of the Board.  It has had some updating in line with the Integrated Performance Report for December and a report to the impending PLC Committee, but nothing significant to highlight at this time. A deeper review of the strategic objectives and associated risks will be conducted on finalisation of the Trust strategy activity being led by the Director of Strategy and Partnerships.

As such, the Trust’s extreme/red-rated risks continue to relate to demand and capacity, workforce, recruitment, financial sustainability and major capital projects; these themes are consistent with current and emerging health sector risks as benchmarked by the Trust’s Internal Auditors, PwC and as played out in reports included in the body of this update from such as the CQC and in the Health Service Journal reporting.

The Trust’s risks at a strategic level on the Board Assurance Framework (**BAF**), and at an operational level on the Trust Risk Register (**TRR**), are considered in more detail through the work of Board Committees in particular the Finance & Investment Committee, the People, Leadership & Culture Committee and the Quality Committee which have monitoring oversight of specific risks; further oversight is provided through the work of the Audit Committee which is responsible for reviewing the content, processes and format of the BAF and TRR to seek assurance as regards risk management processes.

**Impact Reporting – Corporate Affairs**

**Communications, Involvement and Engagement**

This month’s report again includes in the Reading Room examples of the impact of specific team functions beyond the compliance and regulation aspects of the remit of the Director of Corporate Affairs/Company Secretary in order to alert the Board to activity across the Corporate Affairs portfolio. Ongoing iterations of the update report will include these updates as considered pertinent/useful in the prevailing circumstances.

Included is the Charity and Involvement impact report which evidences for Board the extensive activity regarding the charity, volunteering and involvement as well as a forward view. It also incorporates this month the Oxford Health Arts Partnership (OHAP) annual report. The OHAP delivers an award-winning arts programme for the Trust and the report in the reading room highlights just some of the work my team has delivered during 2022 as part of the OHAP Strategy and builds on the expanding body of evidence for the use of arts interventions in healthcare settings. The report anticipates board’s ongoing support for continuation of this work to deliver the 2022-2026 strategic plan.

Finally, this section concludes with the communications and engagement report highlighting an extensive array of activity in December, and again a forward view.

**Compliance matters and prospective analysis**

The Legal Regulatory and Policy 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 and where relevant, a sense of the Trust’s position with regard to the change. **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 that the internal controls in place to deliver compliance against any Trust’s obligations are effective. The Appendix should, on a risk basis, prompt consideration of the need to commission any deep dive (or ‘true for us’ reviews) in order to enhance the level of assurance or to improve the control environment, and/or decisions about the focus of any relevant Board Committee.**

The Executive team meeting’ focus will where relevant ensure Executive Directors are aware of the changes related 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 routine Board reports of individual Executives.

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 final report of the Good Governance Institute as part of the external review against the Well Led framework into quality governance, the Chair of each Committee has since November adopted a ‘Three A’s’ approach to upward reporting to Board (Advice, Alert, Assurance). In addition to the matters in this report, the Board will need to use the Committee Chair’s updates to also influence its identification and assessment of new/emerging risk. The Final report of the GGI is in the reading room as part of a separate item on the agenda and will be part of the focus of the Board Development Session on 3rd February.

Early consideration of matters in this report supports a prospective understanding of risk and opportunity. 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.

**In this month’s Legal and Regulatory Update**, a number of publications have significance for the Trust.

The last report to the Board commented on the Operating Framework and this time, we have seen the publication of the **planning guidance** emphasising the importance of delivering a balanced net system financial position in 2023/24, meeting the 2.2% efficiency target and improving productivity levels. Mental health, learning disability and autism systems must continue to achieve the Mental Health Investment Standard as an absolute minimum. NHSE has also allocated funding to invest in the growth of the improving access to psychological therapies (IAPT) workforce through offering 60% salary support for new trainees in 2023/24, and will also expand services in line with the Long Term Plan’s ambitions on mental health. The guidance highlights the need to reduce pressure on mental health inpatient care. Systems should improve performance across autism diagnostic assessment pathways.

NHSE will support ICBs to develop plans to drive improvements in the quality of mental health and learning disability inpatient services, through an alignment and localisation of services, over a three year period. The guidance encourages systems to revise plans focusing on prevention and for this to be included in **joint forward plans (JFPs). Guidance for JFPs** has been published alongside the planning guidance.

The guidance asks all systems to refresh system workforce plans to increase productivity, deploy staff more flexibly through digital solutions, improve staff experience and retention via a range of national strategies, ensure there is adequate clinical placement capacity, and implement the Kark recommendations which were highlighted to Board in a previous update report. NHSE also plans to increase workforce education and training investment in real terms in each of the next two years.

To improve digital capabilities, more providers are expected to operationalise electronic health records and should work towards developing a population health and planning data platform.

The guidance expects systems to have local objectives in place which will feed into the national NHS objectives. The review of **ICS oversight and governance led by Rt Hon Patricia** Hewitt highlighted in the update will look to enhance the accountability of systems to ensure the level of oversight systems have is appropriate and proportionate.

The NHS Provider briefing on the planning guidance outlines their analysis of the ambitions and priorities across operational performance, financial planning, mental health, system working, specialised commissioning and primary care. They point out it is vital for systems to show genuine commitment to delivering the NHS Mental Health Implementation Plan 2019/20–2023/24 and better enable the provision of local mental healthcare.

The review committee makes a number of welcome recommendations to improve the **draft Mental Health Bill**. The draft Bill will bring vital, long overdue reforms to mental health legislation and the review report highlights the considerable pressure that mental health services are under and the need for proper resourcing of the proposed reforms given that mental health services are already overstretched. The need for high quality alternatives in the community to inpatient care and developing enough workforce capacity across the sector are key considerations.

**Racial inequalities** feature across a number of areas of reporting and legislation in this report, including the aforementioned MHA Bill report given at the outset the Independent Review was established to address racial and ethnic inequalities in the application of the Mental Health Act. Five years on it is suggested these have not improved and, on some key metrics, are getting rapidly worse.

The review calls for the obligation to have a responsible person for each health organisation whose role will be to collect and monitor data on the number, cause, and duration of detentions under the MHA broken down by ethnicity and other demographic information. The Responsible Person should also oversee workforce training and policies designed to address bias and discrimination in decision making in the operation of the Mental Health Act on the basis of protected characteristics, including the implementation of the Patient and Carer Race Equality Framework (PCREF).

The PCREF itself is not part of this update report but is an important part of the Advancing mental health equalities strategy issued around October 2020, and will be used to support NHS trusts to improve ethnic minority community experiences of care in mental health services.Each mental health trust will in time have its own PCREF. This will provide an opportunity for patients, carers, communities and NHS staff to voice their experiences and ideas on how to reduce inequalities for ethnic minority communities. The CMO with the support of the CNO through the Positive and Safe sub-committee is currently considering elements of this Framework in the context of his work on the new provisions of the Mental Health Units (Use of Force) Act 2018 which came into force last year.

The planning guidance also focuses on inequality with emphasis also on tackling health inequalities and improving care for people with a learning disability and/or autism.

Given the significant number of references since the last report to equality and particularly to race equality, it is worth reminding Board of the [Race 2.0 report](https://protect-eu.mimecast.com/s/w4EKCRl9qIRnL17HjHaK5?domain=news.nhsproviders.org), issued by NHSP in March 2022 which showed only 4% of surveyed members felt that race equality is fully embedded as a core part of their board's business. The People, Leadership and Culture and Quality Committees will need to give due consideration to how the Trust can move the dial on race equality. NHSP have usefully published a series of [events and resources](https://protect-eu.mimecast.com/s/rw9XCVv6xc50A6OImBLoj?domain=news.nhsproviders.org) to evidence how to make an impact from what is highlighted to work.

The CQC’s latest **Monitoring the Mental Health Act report** highlights workforce issues and staff shortages mean that people are not getting the level or quality of care that they have a right to expect and that gaps in community mental health care are compounding the rising demand on inpatient services, with delays in admission, transfer and discharge. Again, attention is given to the over representation of people from some ethnic minority groups, and in particular of Black people on community treatment orders.

**No wrong door: a vision for mental health, autism and learning disability services in 2032** sets out a vision for what these services should look like in ten years’ time, for people of all ages in England. This report explores what might help and what could hinder the vision, calling for action on funding, workforce and reform to enable faster access to care.

The importance of system and partnership working is again a theme through this month’s paper, and as reported in July, September and in November, system working and collaboration is set to become a licence condition under our **Provider Licence** such that we will be increasingly judged on our contribution to the objectives of the integrated care system.

The True for Us and learning section of the Appendix will always seek to amplify how every board member must examine the culture within the Trust and how they listen and respond to staff. It promotes that we each take steps to assure ourselves, and the communities we serve, that the leadership and culture across our organisation(s) positively supports the care and experience we provide. Board members need to reflect on how effective assurance mechanisms are at ‘reading the signals’

Finally, continuing the theme of learning and the encouraged ‘True for Us’ curiosity, Board and Committee members are invited to consider the Addendum to the Report in the Reading Room. Notable is the ongoing theme of the importance of culture and behaviours and a number of CQC inspections included in the report will assist with our own development focus.

**Governance Route/Approval Process**

This is a routine report with direct relevance to the Board and its committees and serves to provide early insight into the changing legal, regulatory and policy environment thereby allowing a risk based approach to stimulating further enquiry where relevant. The governance framework (Board, committees, legal duties and management functions) facilitate responsive and effective decision making, ensuring the Board and its Committees and the Executive Management Committee and senior management are able to collaborate, consider issues and respond.

Good governance is at the core of successful operation, ensuring considered and efficient decision making in furtherance of our overarching strategy and long-term sustainability. In discharging its duties the Board is supported by its various Board Committees. 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. 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 to performance or objectives.

**Recommendation**

The Board of Directors is invited to consider and be aware of the content of the report and where relevant, members should each be satisfied of their individual and collective assurances and reassurance that the internal plans and controls in place to deliver compliance against relevant Trust obligations are appropriate and 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 and in the context of the Trust’s strategic risk profile and the effectiveness of mitigations/controls.

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

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

1. *A risk assessment has been undertaken around the legal issues that this report presents and there are no issues that need to be referred to the Trust Solicitors*
2. ***Strategic Objectives/Priorities*** *– this report relates to or provides assurance and evidence against all aspects of each of the Strategic Objectives/Priorities of the Trust*