Countess of Chester Hospital NHS
NHS Foundation Trust

EXTRA-ORDINARY BOARD OF DIRECTORS (PRIVATE)

MINUTES OF THE MEETING HELD ON THURSDAY,
10TH JANUARY 2017 at 11.00AM
TRAINING ROOM 3 & 4
SPC/CER FINAL

		Attendance	
Chairman	Sir D Nichol	☑	
Non Executive Director	Mr A Higgins		☒
Non Executive Director	Mr J Wilkie	☑	
Non Executive Director	Mr E Oliver	☑	
Non Executive Director	Mrs R Hopwood	☑	
Non Executive Director	Ms R Fallon	☑	
Chief Executive	Mr T Chambers	☑	
Medical Director	Mr I Harvey	☑	
Interim Chief Finance Officer	Mr S Holden	☑	
Director of Nursing & Quality	Mrs A Kelly	☑	
Director of People and Organisational Development	Mrs S Hodkinson	☑	
Director of Corporate & Legal Services	Mr S P Cross	☑	
Director of Operations	Ms L Burnett	☑	

In attendance:
Mrs C Raggett – Secretary to the Board

FORMAL BUSINESS

1. **WELCOME AND APOLOGIES**

Apologies were received from Mr Higgins.

2. **To review and consider the position with regard to the Neonatal Unit to include the attached Review of Neonatal Services at the Countess of Chester Hospital NHS FT paper from Mr Harvey**

Mr Harvey gave an overview of the paper and stated that the COCH team had highlighted an issue which was an increased mortality rate over a period of time. They had been unable to come to a view despite reviews, however there seemed to be a common link to a member of staff. This had ultimately led to a detailed review by the Royal College of Paediatric and Child Health. The review team made

a number of recommendations although nothing immediate. One recommendation was for an in-depth review to be commissioned. This in-depth review (not yet circulated) says that post mortem results should be reviewed in a small number of babies. This does have implications in terms of inquests. In one of the cases the cause of death is unascertained, which is not uncommon. Alder Hey will undertake a review into the causes of death however he did not feel that this will substantially change the findings. Mr Harvey is loathed by the depths of reviews undertaken to draw a line however we are close to having everything. The case reviews very much reinforce what is in the review, it comes down to issues of leadership, escalation, timely intervention and does not highlight any single individual.

Mr Chambers stated that once we had the final 4 reviews from Alder Hey, we can draw a line under this first part, the review itself. Following the clinicians raising concerns about the increase in mortality, the Board decision was to first commission an independent review by the RCPCH, the second decision was to downgrade the admission criteria to the unit. The unit has been monitored on a daily basis to assess the impact on both our own maternity unit and the wider neonatal network. There was an unsubstantiated explanation that there was a causal link to an individual, this is not the case and the issues were around leadership and timely clinical interventions.

Mr Chambers said that the admission criteria for the unit was changed and there are consequences to the changes around the people. The report highlights leadership, team communications and the implications for the individual. The individual has raised a grievance and the evidence and outcomes from that mean there are actions we need to deliver on. The outcome of the grievance has not been shared as it is felt that it would not be appropriate but there are some things from the grievance that Mrs Hodkinson can outline.

Mrs Kelly gave details of the consequences of changing the admissions criteria to the unit which did put a spotlight on the unit. Mrs Kelly and Ms Burnett were on a daily basis monitoring admissions in and transfers out the unit. Discussions were held with the network in terms of the impact. The staffing levels on the unit are much improved and the activity level has reduced. The staff found the whole process difficult but they felt more in control. The clinical decisions were all monitored. This was all formally reviewed at the weekly execs meeting along with a tracker report. There have been no significant incidents. Any transfers of babies have also been tracked. Work has been undertake with obstetric colleagues in making sure there is the same understanding of transfer from maternity to the neonatal unit internally and also when transferring out.

Ms Burnett stated that when we first started the review, we did intervene a lot and whilst we do still need oversight there is a better relationship with obstetrics and neonates. Discussions continue with the network and they do not feel there is undue pressure on other units, however last week there was level 3 pressure across the region. Work is going to be going on at the network strategically as to

how neonates will look across the region and they are working with us on that.

Mr Chambers stated that the Trust's ambition was to maintain safety for mums and babies and the Trust had successfully achieved that. There has been no impact beneath the radar, which is surprising as at the start of the conversation we were told that we would need to transfer 17 mums out. Mrs Kelly reported that only a small number of mums had needed to be transferred.

Mr Chambers reported that there had been no undue pressure on other maternity or neonatal units as a result of the changes. There is another strategic review as part of the Cheshire and Mersey Vanguard work and it makes sense to look at the changes as described in the report as some investment would be needed if it did change.

Sir Duncan referred to the admission criteria being mums over 32 weeks gestation and asked about the mums and/or baby under 32 weeks gestation being transferred and if there were high numbers. Mrs Kelly replied that there had only been a small number of transfers out of the unit.

Mrs Hopwood asked if ambulances with a mum under 32 weeks would go straight to Arrowe Park. Ms Burnett replied that the clinicians had advised that if a mum goes into labour prior to 32 weeks it is very quick so they would still come to COCH.

Mr Harvey said that when thinking back to activity one alarm bell was how many cots the unit had over their allocation, the number of low birth weight and gestation babies and this strengthens the case that it was due to the intensity of the number of babies coming to the unit.

Sir Duncan asked if this information would be of interest to the network. Mr Harvey replied that we do have the figures however the scrutiny has been from the CCG, NHS England, CQC and the network, who all want a copy of the review.

Mrs Hopwood said that she was hearing that the issues were due to staffing pressures. Mr Harvey replied that this was one factor in what was a multi factional case. Mr Chambers added that the Trust saw an increase in mortality but not a change in other data. The daily monitoring on the unit provides data which has not previously captured.

Mrs Hopwood stated that the report clearly talks about staffing shortages however this was not coming through on staffing indicators at QSPEC or Board. Mrs Kelly had undertaken a separate nursing review as there had been no significant issues at the time. We knew we were under the standard but we were not the only Trust doing this in England. We discussed this with NHS England about not meeting the standard, staff were happy and raised no issues.

Mr Wilkie said Mrs Kelly had also answered his question as nobody was meeting

the standards. We had professional advice so this was appropriate but that he could not then understand why staffing became an issue during the review.

Mrs Hopwood asked about the consultant staffing. Mr Harvey replied that the Royal College has brought in new standards for paediatrics and following the approval of a couple of business cases a 9th consultant has just been appointed and interviews are scheduled for a 10th consultant, which once filled would fulfil requirements from the College. Trainees will always be an issue as HENW have training posts empty.

Mrs Hopwood said that at QSPEC, we receive a verbal update about vacancies, and a safe staffing 6 monthly report goes to Board for nursing. She asked if there was anything similar for the consultants. Mrs Hodkinson replied that at the fortnightly Medical Pay Board, vacancies are reviewed, it is also included within the performance report and any issues are highlighted.

Mr Chambers stated that this was a good debate and that in terms of the recommendations and actions going forward we need to reflect on and tighten up on tracking and real-time information.

Mr Chambers stated that there is an important set of consequences for people and for one individual. There is an unsubstantiated claim that the issue was down to one individual's actions and behaviours. We did explore supervised practice for the individual but this was not supported by clinical colleagues. The individual submitted a grievance and has subsequently written a statement of how this has affected her.

Mrs Hodkinson read out the statement from the individual which was in the individual's own words. Mrs Rees, Head of Nursing – Urgent Care, would also read out this statement to the consultants in the near future.

Mr Chambers and Mrs Kelly have met with the individual and their family. Mr Chambers said that the motivation for the decisions we have made, as we probably knew was a suboptimal decision but was made for the right reasons. The reasons were not motivated by reputational issues, the motivation was safety.

We wanted to make sure no harm to babies and we needed to have the consultant team with us. The consultant team were very strong in their views that this would not be possible if we did not redeploy the individual. The reason we redeployed the individual was that they would have been put in an intolerable position and potentially it could have been a self-fulfilling prophecy of harm to the individual and babies. The Board took the decision in the best interests of the patients, staff and the individual. Where Mr Chambers felt it went wrong was that we were not as honest with the individual as we could have been. Mrs Kelly had agonised over this as well, we were not transparent in the first instance as we were trying to protect the individual in some ways, as our feelings were that if we

really believed that the individual was the causal factor if the change of survival rates on the unit, we would have called the police. However, we did not feel this was the case and we have explained this to the individual and their family.

Mr Chambers has said to the individual and their family that we will manage as best we can a safe transition back to the unit but you see from her statement this may be tricky. It may not be possible in the end but we will do everything we can. The recommendations from the grievance and some of the unprofessional behaviour from the consultants will means that we are seeking an apology from the consultants for their behaviour and verbal statements which border on victimisation, this is deeply uncomfortable. As a Board, we did not do anything wrong, this is a tricky situation and the next steps will be critical.

Mrs Hodkinson stated that there is an apology and also a request for mediation with Dr Breary and Dr Jayaram. Mrs Rees has been assigned as a mentor for the individual, with Mrs Hodkinson, Mrs Kelly, Mrs Rees, and Miss Cooper to support the individual and their continued professional development.

Mr Oliver said that we are where we are, we took the decision for the right reasons. The next stage is critical not just for the reputation of the Trust but also for the unit and the individual.

Mr Wilkie agreed with Mr Oliver's comments.

Mr Chambers stated that the Board had been given the unredacted version of the report, however the RCPCH had made some comments about some of the HR issues concerning the individual which are not appropriate to be shared. Mr Harvey has discussed the issuing of 2 reports with RCPCH and they are content to do so. Mr Chambers added that the redacted report still answers the questions raised.

Mrs Fallon referred to members to staff hearing comments and that from the Board's perspective this is unacceptable behaviour from the consultants. We sat as a Board and made a decision that was right at that time. In hindsight we may have managed this differently, not changed the decision but may have done in a different way.

Mr Wilkie felt the decision was right but the behaviours were not.

Mr Chambers stated that the outcomes from the grievance will address the behaviours and we will go ahead with the recommendations from grievance.

Mrs Hodkinson reported that Dr Green did the investigation into the grievance and this was then heard by an independent chair. It is clear that we acted appropriately given the issues. Mrs Kelly has discussed this with the individual and said that we should have been upfront from the start, but that it was to protect her b which she and her and family did not see as fair and that we could

have done differently.

Sir Duncan stated that the Board is comfortable with the process and notes there are lessons to be learnt. The Trust will seek to implement the recommendations from the review. There is the issue of communication of the report. There is no requirement to go above a level 2 unit at this stage, as that decision lies outside the Trust with the network and would require investment. There is a need to engage with the consultants and the individual's return.

Mrs Hopwood asked are we having formal communications with the individual to say that we have reflected as a Board and we stand by our decision but acknowledge we could have managed this differently.

Mr Chambers replied that the individual's family want assurance that the bad behaviour by the consultants will be dealt with and any re-occurrence would be dealt with. We have given that commitment and will support the individual back to the unit. The individual is not looking for any further redress and the grievance exonerates her.

Mrs Hopwood asked where the individual's statement would be going. Mrs Hodkinson replied that is was being shared with the doctors.

Mr Wilkie asked if the consultants accept the recommendations from the report. Mr Harvey stated that the draft report had been shared in a controlled way with Dr Brearey and Dr Jayaram for comments. The areas that need to be brought together are the feedback from the review and the recommendations from the grievance. We need to be clear on the message from the board and also the consequences for stepping over the line.

Sir Duncan stated that in terms of communications the public need to know that we did this for the right reasons, we have issues around the 2 reports, we need to handle the communications carefully. We did talk about leadership, escalation and staffing levels at peak times, there is no single cause and no collective issue. The words are really important and people will choose what to believe. The Trust will be making a statement once we have met with the consultants.

Mrs Hopwood asked that there are assurances that the report will not be leaked to the press by the consultants. Mr Chambers replied that this would form part of the conversation with consultants where we will be very clear about the expectations.

Mr Wilkie asked if the issues around behaviours was accurate. Mrs Kelly replied that it was accurate. Mr Chambers added that there was a lot of substantiation around the behaviours.

Sir Duncan stated that the Board accepted the report and support the implementation subject to the strategic review, supported the individual going