NHS
Trust Development Authority

Agenda item 1
Paper A

Minutes of the NHS Trust Development Authority Board Meeting held on 19 November 2015 at the Marlborough Theatre, King's Fund, Cavendish Square, London

PRESENT

Dame Christine Beasley	Vice Chair
Sarah Harkness	Non-executive Director
Crispin Simon	Non-executive Director
Caroline Thomson	Non-executive Director
Jim Mackey	Chief Executive
Bob Alexander	Deputy Chief Executive
Dr Kathy McLean	Medical Director
Peter Blythin	Director of Nursing
Ralph Coulbeck	Director of Strategy
Dale Bywater	Director of Development and Delivery (Midlands and East)
Anne Eden	Director of Development and Delivery (South)
Lyn Simpson	Director of Development and Delivery (North)
Elizabeth O'Mahony	Director of Finance
Rob Checketts	Director of Communications

APOLOGIES

Sir Peter Carr	Chair

IN ATTENDANCE

Lynne Burgess	Secretariat

59/15 CHAIR'S OPENING REMARKS

The Vice Chair welcomed Jim Mackey who had been appointed Chief Executive of NHS Improvement and Accountable Officer of the NHS Trust Development Authority (NHS TDA). Mr Mackey had played a significant part in the north east health economy – one of the most successful in the country. He had already been working closely with the NHS TDA on the North Cumbria economy.

The Vice Chair recorded her thanks to Bob Alexander for his leadership role since the departure of the former Chief Executive, David Flory, earlier in the year, which had enabled staff to remain focussed on day to day work during the re-organisation. The Board recognised the hard work being undertaken by staff during this time of job uncertainty. NHS trusts gave positive feedback about the NHS TDA even when they had been given difficult messages.

The Board gave its thanks and recognition to Sir Peter Carr for the excellent work he had undertaken on behalf of the NHS TDA.

60/15 MINUTES OF PREVIOUS MEETING
The minutes of the meeting held on 16 September 2015 were approved as a correct record.

61/15 MATTERS ARISING
Matters arising from the previous meeting would be covered in subsequent agenda items.

62/15 TRANSITION TO NHS IMPROVEMENT
The Chief Executive was at the end of his third full week in post and had been impressed with the hard work, attitude and capability of NHS TDA staff. The re-organisation associated with the creation of NHS Improvement (NHSI) was moving into a key stage and the Board would be updated on further developments at the next meeting.

The Director of Strategy reported on programme management arrangements for the transition process. There was an inherent challenge in delivering significant change within a short timescale whilst continuing to work effectively on business as usual.

There was a keen focus on internal and external engagement and a recognition that the cultural elements of the change were as important as the technical ones.

It was agreed that the non-executive directors should be provided with copies of the presentations that were sent regularly to staff. There was a commitment to secure a strategy and vision for NHSI by December 2015; this would be shared in advance with the non-executive directors. The non-executive directors offered their services in ensuring that staff were treated fairly during the transition, for instance by the creation of a Human Resources sub-committee. This would be borne in mind. The non-executive directors asked for greater clarity about their accountability within NHSI. The Chief Executive undertook to discuss this with the incoming Chair of the NHSI and would ensure that systems were built that would enable non-executives to input into the new organisation.

The NHS TDA's Audit Committee was taking a strong interest in the transition process and the Integration Director would be invited to join the next meeting in January.

The Chief Executive undertook to ensure that staff members from both organisations were treated as well as possible. Both organisations had excellent staff and it was important that the right signal was sent to the rest of the health system in the way that the transition was handled.

The Board:

- **noted the position.**

63/15 PERFORMANCE OF THE NHS TRUST SECTOR (SIX MONTHS ENDED 30 SEPTEMBER 2015)
The Director of Delivery and Development (Midlands and east) reported on NHS trust performance in quarter two. Referral to treat (RTT) incomplete pathways was highlighted as a target which had been met. Delivery of the six week waiting time standard for diagnostics was off track but showing signs of improvement. Six of the

eight cancer standards had been met. All three of the ambulance targets had not been met. New standards were to be introduced for mental health services and would be reported at a subsequent Board meeting.

The five worst performing NHS trusts for Accident and Emergency (A&E) had been highlighted in the performance report. Factors impacting on trusts' ability to meet A&E targets included high bed occupancy rates; increased attendances; and increased admissions. Delayed transfers of care (DTOCS) remained an issue and work was being undertaken across health systems to try to resolve it.

The NHS TDA was working with organisations on those factors within their control for instance by sharing knowledge on practices that had proven successful. Intensive support was being provided to the most challenged trusts. Work was underway with partners on factors that were outside direct trust control.

Performance in relation to diagnostic waiting times was variable. This was recognised as a very important part of cancer pathways. The longest waits were for endoscopy services.

Key actions by the NHS TDA included: validation of lists and data; use of the independent sector; and weekly tracking of patients. Some organisations were especially challenged due to the need to address waiting list backlogs.

The cancer standards for the percentage of patients with breast symptoms referred to a specialist in 14 days, and the percentage of patients receiving treatment within 62 days of an urgent General Practitioner (GP) referral had not been met. The latter was the focus of national work to improve performance. All NHs trusts understood the significance of the target and were working as hard as possible to achieve the standard.

All three ambulance standards had been failed during the quarter two. Trust Chief Executives were engaging with the NHS TDA and had identified areas of good practice which could be shared including improving turnaround times; a focus on 'hear and treat'; and reducing the number of patients conveyed to hospital. Work was underway to explore the difference in rates between hospitals. The Director of Nursing confirmed the position with regard to patient choice of hospital when being conveyed by ambulance. In the case of serious injury or illness the agreed pathway must be followed by the ambulance staff. In other cases, if the patient is conscious they must be allowed a choice of hospital although the ambulance crew can offer advice to the patient and family.

The number of cases of Clostridium Difficile (C Diff) reported by NHS trusts in the year to date was 151 over the trajectory compared to ten in the same period last year. The NHS TDA was working with NHS trusts on root cause analyses of the cases and improvement plans.

There was a move to give mental health services parity with physical health care. New standards were being developed which would focus of outcomes. Standards relating to the Care Programme Approach (CPA) had not been met nor had the standard for improving access to psychological therapies. One Trust had breached the standard relating to patients aged less than 16 years placed an adult ward.

64/15 AGENCY CONTROLS

The Board was informed about the three key strands of the proposed midwifery and care staff agency controls policy.

The policy had arisen due to significant concerns about the cost of agency staff and locums which had led to the sector spending £3.3 billion on temporary staff in 2014/15. In addition, there was evidence that the widespread use of agency staff had a negative impact on the quality of care provided to patients. The consultation on the policy closed on 13 November; a letter was expected to go out to the system on 20 November.

The NHS TDA had worked closely with Monitor colleagues to develop the policy engaging with trust leadership and a range of key stakeholders including the Care Quality Commission, Health Education England and NHS England. The policy was expected to improve patient safety and provide a better working environment for staff.

Each component of the policy held its own complexities and the NHS TDA and Monitor were developing a package of support to help trusts with implementation. Some trusts were likely to need intensive support. In light of concerns about the potential impact on patient safety, the policy included a clause which allowed trusts to over-ride the rules in exceptional circumstances.

The policy could lead to some agencies withdrawing from the market consequently affecting the supply of temporary clinical staff. An impact assessment exercise had been completed but it was difficult to predict how agencies would respond. It was hoped that the policy would lead to some staff moving from agency to bank work.

The Board:

- **noted the proposals to introduce an agency control policy to reduce and control future expenditure on temporary workers.**

65/15 UPDATE ON SPECIAL MEASURES NHS TRUSTS

The Medical Director provided an update on the 'special measures' programme which had been introduced two years ago in the wake of the Keogh report. At this juncture it was appropriate to reflect on the programme to date and understand how it would work after the transition to NHSI.

Eleven NHS trusts had been placed into special measures, four of which had subsequently exited the regime. Knowledge gained from the programme to date had been analysed to enhance and refresh the programme of work during and after the transition to NHSI. NHSI's prime aim would be to prevent trusts from entering the special measures regime.

The Department of Health had instigated a more formal approach to oversight by introducing a quarterly reporting system and requiring a letter setting out individual plans for each special measures trust. NHSI would also develop closer and more formal links to the CQC on trust plans.

The Board:

- **noted the current position with the Special Measures programme; and**

- **endorsed the proposed approach to supporting trusts in the future.**

66/15 TRANSFORMATION PROGRAMME

The Director of Communications updated the Board on the current position with the VMI transformation programme. The five NHS trusts which had been selected to take part in the scheme each had a guiding team in place for the programme and had chosen their value streams. Executive Leadership seminars and Leadership Orientation sessions had taken place. A group of staff from the NHS TDA had also had the opportunity to undertake leadership orientation. This opportunity would be widened to NHSI staff at a later date.

At national level a Transformation Guiding Board had been established comprising of the NHHS TDA and leadership from the five participant trusts. A compact between the NHS TDA and the trusts was being developed.

The NHS TDA had been very encouraged by the enthusiasm and commitment of the participant trust and by the leadership shown in those trusts.

The Board:

- **noted the current position with delivery of the VMI transformation programme.**

67/15 NURSING AND MIDWIFERY REVALIDATION

The Director of Nursing gave an update on the Nursing and Midwifery Council's (NMC's) proposed model for nursing and midwifery revalidation. A final decision had been made by the NMC on 8 October and the policy would become effective on 1 April 2016. This would be a large scale change affecting circa 700,000 registrants.

State of readiness reviews conducted by NHS trusts had revealed a number of risks which were being assessed and mitigated. In the first quarter of 2016/17 30,000 nurses were due to undergo revalidation. Failure to achieve the revalidation standards would results in the nurses being unable to work with a consequent risk to delivery of patient care. There was a further risk that a number of nurses would actively choose not to be revalidated.

The NHS TDA would continue to work closely with the NMC and Nurse Directors to successfully implement the revalidation programme.

In light of the NHS TDA's role as employer, arrangements would be made for nursing staff to undergo the process of revalidation.

The Board noted:

- **that the policy on revalidation of nurses would become effective from 1 April 2016; and**
- **steps being taken by the NHS TDA to ensure that nursing staff in NHS trusts and the NHS TDA undergo revalidation.**

68/15 MERSEY CARE NHS TRUST FOUNDATION TRUST APPLICATION

The Board was asked to consider whether an application for foundation trust status from Mersey Care NHS Trust should be passed to Monitor for assessment.

The Trust was established in April 2001 to provide services for people with mental health problems, those with learning difficulties, and those with addictions. Additionally the Trust was one of three in the country that provided a high secure service from Ashworth hospital.

The Trust had a financial turnover of over £200 million. It had performed strongly on performance and finance for some considerable time but its status as a high secure facility had so far prevented it from moving to foundation trust status.

An element of the Trusts' business plan was to acquire Calderstones Partnership NHS Foundation Trust. This was in line with a national initiative to phase out learning disability trusts. The NHS TDA was working with colleagues at Monitor on the sequencing of the proposed transaction but the first step was for the Trust to achieve foundation trust status.

The NHS TDA had conducted a range of assurance exercises including review and feedback of the Trust's Integrated Business Plan, interviews with Trust leadership, Board and Committee observations, and a board to board meeting.

Following an inspection by the Chief Inspector of Hospitals (CIH) in May 2015, the Trust was awarded a rating of 'good' but was pushing forward with plans to achieve a rating of 'excellent' in its next assessment.

The Trust had strong relationships with local and specialist commissioners. NHS England was supportive of the Trust's application.

The Board was asked to agree to forward Mersey Care's foundation trust proposal to Monitor for assessment.

The Board:

- **agreed to refer to Mersey care NHS Trust to Monitor for assessment towards foundation trust status.**

69/15 CENTRAL LONDON COMMUNITY HEALTHCARE NHS TRUST FOUNDATION TRUST APPLICATION

The Board was asked to consider the current position with regard to the Foundation Trust (FT) application from Central London Community Healthcare NHS Trust.

The Trust had received a rating of 'good' from the Chief Inspector of Hospitals, which is a pre-requisite for trusts wishing to be considered for FT status. The NHS TDA was working with the Trust on its response to the CIH report.

The Trust was in a financially sound position having delivered a surplus over the last four years and had been successful in securing additional business from commissioners.

A recent board to board meeting with the Trust had been very positive and the Trust had demonstrated good clinical leadership.

The executive team wished to secure further assurance on a small number of issues before making a final decision about whether it should be referred to Monitor for

consideration as an FT. The Board was therefore asked to delegate responsibility to the Chief Executive for referring the Trust to Monitor should the appropriate assurances be received. It was expected that a decision would be taken in the next few weeks and the outcome would be reported at the next Board meeting.

The Board:

- **delegated authority to the Chief Executive to refer Central London Community Healthcare NHS Trust to Monitor for consideration as a foundation trust should the necessary assurances be received.**

70/15 APPROACH TO OPERATIONAL PLANNING FOR 2016/17

The Director of Finance outlined the proposed approach to operational planning for 2016/17.

The outcome of the Government's spending review would be crucial in enabling trusts to undertake detailed planning for 2016/17 as well as providing the four-year resource expectations through to 2019/20. Proposals on a new tariff were being developed jointly by NHS England and Monitor and the outcomes of a consultation would be known early next year.

The NHS TDA was aligning with Monitor on its expectations for the provider sector with a view to presenting the Board with a unified product for 2016/17. The initial focus would be on one year operational plans for 2016/17 allowing time for discussion with strategic partners to inform operational plans from 2017/18 onwards. The aim was for NHS trusts and foundation trusts to have in place robust plans that demonstrate delivery of safe, high quality services and an improved financial position for those trusts that were in deficit at the end of 2015/16.

Following a very challenging year for providers in 2015/16, further work was needed on demand and capacity planning to support trusts with the planning process. The NHS TDA's Head of Information would be the senior responsible officer for the whole provider sector and had commenced an ambitious project to significantly change the demand and capacity process in the future.

The timeline for submissions of plans would be finalised in the coming weeks after further discussion with partners.

The Board:

- **endorsed the proposed approach to operational planning; and**

- **authorised the executive team to agree final arrangements with partners on behalf of the NHS TDA.**

71/15 STRATEGIC RISK REGISTER QUARTER TWO 2015/16

Following scrutiny by the Audit Committee the Board was presented with the strategic risk register showing the position at quarter two.

The wording for the risk on joint working with Monitor had been updated and the score had been increased from six to twelve in line with the Audit Committee's views.

A risk relating to clarity of commissioning had been removed as the issue now formed part of the NHS TDA's usual business processes.

The Board emphasised the importance of maintaining focus on the sustainability of NHS trusts despite the fact that the segmentation exercise was not being actively pursued at present.

The Medical Director provided an update on the position with the Junior Doctors contract which had the potential to impact on a number of the NHS TDA's key risks. The Junior Doctors had voted overwhelmingly to go on strike and three strikes were planned beginning on 1-2 December.

Emergency planning measures would be instituted led by the NHS England. NHS trusts had been asked to submit emergency plans which would be assured by the NHS TDA. Support would be offered to this NHS trusts which needed it. The biggest risk was expected to lie with those NHS trusts that already had a significant number of vacancies. A&E services would take precedence and elective procedures would be cancelled as necessary.

The British Medical Association (BMA) had issued guidance for NHS trusts emphasising that patient safety was paramount. The NHS TDA was reinforcing this message to trusts.

The Board:

- **noted the strategic risk register for quarter two 2015/16.**

72/15 CORPORATE REPORT

The Board received the minutes of recent Committee meetings together with a summary of recent cases approved by the Investment Committee.

The Director of Finance reported that the NHS TDA was on course to meet its statutory financial duties for 2015/16. There was an under-spend of £1.4 million which was due to staff vacancies. This would be re-allocated in the most effective way possible.

The Board noted:

- **minutes of recent Committee meetings;**

- **recent cases approved by the Investment committee; and**

- **that the NHS TDA was on course to meet its statutory financial duties for 2015/16.**

73/15 STATEMENT ON BEHALF OF THE CHAIR OF THE NHS TRUST DEVELOPMENT AUTHORITY

The Chairman issued a statement signalling his intention to stand down as Chair of the NHS TDA on 30 November to enable Ed Smith to take up the post of Joint Chair of Monitor and the NHS TDA on 1 December.

Sir Peter had indicated that, with the Board's approval, he would be willing to remain on the NHS TDA Board in role of Deputy Chairman during the transition to NHSI. Dame Christine Beasley had agreed to stand down from her current role as Vice Chair to facilitate this although she would remain as a non-executive director.

The Vice Chair conveyed the Board's thanks to Sir Peter for the work he had undertaken in establishing the NHS TDA and setting the foundations for the work that would be continued by NHSI.

The Board:

- **noted that Sir Peter Carr would stand down from the role of Chairman of the NHS TDA with effect from 30 November 2015;**

- **approved Sir Peter Carr's appointment as Deputy Chairman of the NHS TDA from 1 December 2015;**

- **noted that Dame Christine Beasley would stand down from the role of Vice Chair of the NHS TDA with effect from 30 November 2015; and**

- **noted that Ed Smith would assume the role of joint Chairman on Monitor and the NHS TDA with effect from 1 December 2015;**

DATE AND VENUE OF NEXT MEETING

The next meeting would be held on 28 January 2016 at Wellington House, London.