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| **Council of Governors (Public) Minutes – 8 March 2018** |
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Chair:

Ms Susan Symington

**Public Governors:**

Mrs Jeanette Anness – Ryedale & East Yorkshire

Mrs Ann Bolland, Selby

Mr Andrew Butler, Ryedale & East Yorkshire

Mr Roland Chilvers, Selby

Mrs Helen Fields, City of York

Mrs Margaret Jackson, City of York

Mrs Sheila Miller, Ryedale & East Yorkshire

Mr Michael Reakes, City of York

Mr Clive Neale, Bridlington

Mr Richard Thompson, Scarborough

Mr Robert Wright, York

**Appointed Governors**

Cllr Chris Pearson, NYCC

**Staff Governors**

Dr Andrew Bennett, Scarborough/Bridlington

Mr Mick Lee, York

Mrs Jill Sykes, York

Mrs Helen Noble, Scarborough/Bridlington

**Attendance**

Mr Patrick Crowley, Chief Executive

Mr Brian Golding, Director of Estates & Facilities

Ms Polly McMeekin, Deputy Director of HR

Mrs Lynda Provins, Foundation Trust Secretary

Mrs Jennie Adams, Non-executive Director, York Teaching Hospital

Apologies for Absence:

Apologies were received from the following:

Ms Dawn Clements, Appointed Governor, Hospices

Ms Karen Porter, Project Choice

Mrs Sharon Hurst, Community

Ms Libby Raper, Non-executive Director

Mr Mike Sweet, Non-executive Director

Mrs Jenny McAleese, Non-executive Director

**17/44 Chair’s Introduction and Welcome**

Ms Symington welcomed everyone to the meeting.

**17/45 Declarations of Interest**

There were no changes to the declaration of interests noted.

It was noted that this should read Governors on the agenda and not Directors.

## 17/46 Minutes of the meeting held on the 7 December 2017

The minutes of the meeting held on the 7 December 2017 were agreed as a correct record subject to the following amendment:

Page 13 – Transport – this should read that the use of minibuses is in discussion.

## 17/47 Matters arising from the minutes

No matters arising were discussed.

## 17/48 Update from the Private Meeting held earlier

Ms Symington noted that there had been a discussion around the Chair and NEDs appraisals and objectives.

## 17/49 Governors Reports

**Out of Hospital Care** – Mrs Jackson stated that Governors on this group were asked to get involved in how this work could be fed out to localities.

**Transport Group** - Mrs Miller stated that the Transport Group were doing a wonderful job as the Trust were saving money using pool cars and on CO2.

**Fairness Forum** – Mrs Bolland stated that Project Choice was still trying to find places for young people. She also mentioned that Project Choice would still like an office in the main building instead of Park House as often they are required to support individuals immediately.

**Arts Strategy Group** – Mrs Anness stated that work was being done to look at the terms of reference and especially whether the right people were required to attend. Ms McMeekin stated that a number of directors were on the membership list when really the Group should have oversight from the Workforce and OD Committee and this Group was about operational delivery.

## 17/50 Chief Executive’s Report

Mr Crowley highlighted the pressures in the NHS and noted that both main sites continue to be working at full capacity in relation to appointments, admissions and with high levels of acuity. He noted that February had seen the pressures in the system at their highest level in his experience. Mr Crowley also highlighted the financial pressures which the Trust was under and that this could not be disassociated from performance. He noted that the Trust had deficit of just over £20m which included loss of income from cancelled electives. Mr Crowley stated that a huge amount of effort had gone into stabilizing the financial position in the 2nd half of the year and further work was being done to depress spend in March. Ms Symington stated that teams had already been depressing spend and Mr Crowley said that this was more about deferring spend to the next financial year.

Mr Neale asked why you would defer spend and not take the hit within the year. Mr Crowley stated that it was to do with profiling spend and generating a cash resource in a crucial part of the year. Mr Crowley also stated that the message around financial recovery was continually changing as there was a danger that the current position became normalized.

Mr Crowley stated that while the CQC Report was disappointing, it revealed ongoing improvement and that York and the Community were rated as good and Scarborough and Bridlington were in a stable requires improvement position. He noted that recruitment and staffing was a thread throughout the report, which was linked to safety. Mr Crowley did not think the rating was a reflection on services or staff and that it was a fair rating for the context the organisation was working in around financial issues and the pressures faced, especially as levels of activity and patient acuity have never been higher. Mr Crowley stated that if you looked at performance this year it was actually better than last year and that was within a context of even more difficulties with recruitment so he thought staff were doing a superb job.

Mr Reakes noted some innovative solutions in respect of MRI and wondered if the Trust could put this on the wish list. Mr Crowley responded that the Trust always aspires to provide the best service.

Mr Crowley stated that he has taken comfort from how the report has been received and he noted that even the local media are supportive of the trust. Mr Crowley commented that the report had not shown understanding and recognition of the work being done, like orthopaedics and lucentis moving to Bridlington and the one stop urology unit in Malton and the mobile chemotherapy unit. He noted that the Trust did not receive any recognition for early implementation of some of these developments. He also noted that the Trust’s recruitment efforts reflect the CQC’s list of actions and NHSI have been helping the Trust to improve performance.

Mrs Anness stated she was disappointed that the Trust did not get a good for well led and Mr Crowley agreed as it was difficult to understand how the Community and York could receive a good and Scarborough and Bridlington did not but were part of the same organisation. He noted that even some of the journalists had also asked that. Mr Crowley stated that the Trust will continue to examine the comments to see what could be learnt.

Mrs Anness was concerned about the comments that staff felt undervalued and under supported. Mr Crowley stated that the Trust had 9000 staff working 24/7 and that some of this could be to do with local issues and culture. Ms Symington stated that culture had been a major thread at the recent Board time out.

Mrs Bolland stated that it was easy to be negative about the report, but that she would rather congratulate staff who having been giving their all especially during the recent bad weather.

Mrs Miller asked if the report could be challenged. Mr Crowley stated that while the Trust had improved, there were flaws in the process especially as some elements were not reviewed this time (so those areas retain a requires improvement rating from 2015). Mr Crowley also thought some areas of innovation should have received an outstanding. Mrs Miller asked who reviewed the CQC and Mr Crowley stated that some of the information was gained through triangulation between NHSI, CQC and other bodies. Mr Crowley stated that a strong challenge had been put into the draft report which had led to changes, but not to the rating. He stated that the Trust had to take the report on the chin, apply the context and look at ways to improve.

Mr Crowley stated that he was also looking at three important areas of staff feedback: the staff survey, a listening exercise and the work by Jupiter with regard to recruitment which would also provide some focus. The Council discussed the inspection team and Mrs Bolland stated that things were the same in education.

Mr Hinchliffe asked about executive/leadership presence at Scarborough and Bridlington and Mr Crowley stated that the executives work across sites and there is senior representation from clinicians and operational staff. He noted that there was still work to be done at Bridlington.

Mr Wright asked about the license investigation and what impact Mr Pleydell had had on the STP. Mr Crowley stated that the root cause of the investigation was the financial position and part of the requirement was about whether the Trust proceeded into the year knowing it could not live within its resources. It was also about what judgements had been made and whether they were fair. Mr Crowley stated that he was comfortable with the decisions made. He noted that the investigation would begin next week with a series of meetings and then attendance at some committees.

Mr Crowley provided the background to the STP and that a number of STPs judged to be doing well were already working together before the instigation of the STPs. He agreed the Humber, Coast and Vale STP was not functioning well, but some of this was to do with geography especially the denial of the North Yorkshire area and leadership. He noted that the name Humber, Coast and Vale appeared to rub North Yorkshire off the map and that many of the areas within the STP had no attachment to North Yorkshire. Mr Pleydell’s conclusion had been that the STP should go back to reasserting the place based plans which made up the composite plans. He noted that this conclusion had not been received well in the geography and that there was no sense of why it was not working just a reinforcement of the current mechanics. Mr Crowley noted that the governance for the STP was being simplified and this was a good move.

Mr Crowley stated that a number of processes would be controlled by the STP in future including distribution of capital and he had agreed to lead the group looking at the capital bids.

Mr Crowley also highlighted separate discussions which were going on in the North Yorkshire area.

Mr Butler raised a number of factors that were concerning around the loss of elective income, the Scarborough subsidy and the NHSE’s direction to CCGs regarding reverting to payment of the contract in 12ths and asked what Mr Crowley’s approach was going to be. Mr Crowley agreed with what Mr Butler was saying, but stressed it was about providing leadership and not creating dissent in the organisation. Mr Crowley stated the licence investigation was an opportunity to get some understanding of the theory and the current environment. However, he did stress that there appeared to be no memory of things like the merger and various understandings made at that time especially as the loss of the Scarborough subsidy was critical. Mr Crowley stated that there was a refusal to look at the Scarborough issues as it was now part of a bigger Trust.

Ms Symington noted that there is little sympathy for financially challenged organizations, with the focus being on transformational change to deliver service and financial improvement. Mr Crowley noted that the Trust has previously had a couple of licence investigations around MRSA and ED performance, but these were slightly different under Monitor as you were called to account and then took action. Currently, it is difficult to correct the situation as the control total continues to move and the Trust performance precludes us from the STF funding.

## 17/50 Alternative Delivery Model Update

Mr Golding highlighted that the Governors had previously received a briefing note about the ADM. He stated that he had seen approximately 200 out of 900 staff to discuss the changes. Mr Golding stated that the Trust was in significant financial difficulty and the directorate was under increasing pressure to deliver CIPs of 5% year on year and if they could not deliver there would be a knock on pressure to clinical services.

The ADM would be wholly owned by the Trust but have significant commercial benefits similar to a PFI model. The Trust would be able to recover VAT spent on capital projects from 2011 which amounted to approximately £7m and a revenue saving of £4.5m which in itself was equivalent to 3 years CIP.

Mr Golding stated that it was the Trust’s intention to keep staff terms and conditions the same if possible and he also stressed it was not privatisation by the back door. However, he was aware that staff were concerned about leaving the NHS, but the company would remain wholly owned by the Trust. Mr Golding was concerned that if the Trust did not make this move then it would have to market test services to make savings, which could lead to someone else providing the services who could also take the opportunity to erode terms and conditions.

Ms Symington stated that the Board had had robust discussions about this and NHSI have been clear that the Trust has to do everything in its power to deliver financial recovery.

Mrs Thompson stated that she was concerned that the DH did not approve of these companies being set up and was the Trust confident that there would be no longer term implications. Mr Golding stated that NHSI were encouraging the Trust to go ahead and if the Trust did not take this step it would be disadvantaged. He noted that if the Government does legislate then the changes would apply to everyone including current PFIs involving schools, prisons etc and everyone would be affected by a 20% increase.

Mrs Fields asked if creating the company would change the way services were delivered. Mr Golding stated that in his opinion the estates and facilities staff do not get a fair hearing at the Joint Negotiating Committee due to clinical/nursing services dominating the agenda and that creating the company would mean improvements for staff.

Mrs Anness asked if new staff joining the company would do so on the same terms and conditions as she was concerned about a 2 tier system. Mr Golding stated that he did not yet know the full answer as the Trust would be reliant on being able to offer access to the NHS Pension Scheme and the Scheme would need to agree to this. If new staff were not able to join the Pension Scheme then it would be about making their total reward package equal by increasing the hourly rate so in effect this would create a 2 tier system. Ms McMeekin stated that the Trust was not alone in setting up a company and she was aware through her network that the NHS Pension Scheme were trying to accommodate Trusts, however, unions wanted to keep the national terms and conditions the same.

Mrs Miller asked if capital would still come in from the NHS. Mr Golding stated that capital would come in, in exactly the same way, but would go further.

Mr Thompson asked if reclaiming the VAT back to 2011 was a one off and Mr Golding responded that VAT would not be paid on all schemes going forwards which would mean the money would go further.

Mr Reakes stated that the financial argument seemed convincing, but he was concerned that the briefing seemed to imply that staff terms and conditions would be affected. Mr Golding restated that wording which said it was not about eroding terms and conditions.

Mr Neale asked if the new model would be arms length from the Trust. Mr Golding stated that he was currently working through how the company would operate including structure and management and Day 1 of operations should see only minor changes with some modest extra costs like the Company taking on it’s own Health & Safety Lead. Mr Neale stated that if the new company was contracted to deliver estates and facilities services then it would be market tested at some point. Mr Golding stated that the contract is likely to be a long one of approximately 25 years in order to provide benefits and protect terms and conditions.

Mr Butler asked if it was classed as a significant transaction and Mrs Provins responded that NHSI did not see it as a significant transaction as it did not fit the criteria.

Mr Lee asked if all staff were moving into the company and Mr Golding indicated that a small number would remain with the Trust.

Mrs Fields asked about any significant risks and Mr Golding stated that the biggest risk was around staff and once the company was established a consultation with staff would commence with the risk being that staff would leave.

Mrs Miller asked if there would be an opportunity to take on outside work and Mr Golding stated that one of the benefits would be to grow the business.

Mr Golding responded to Mrs Thompson’s question about extra costs and stated that they were all part of the financial information provided. He noted that the Trust was currently working through issues in relation to his position in the company and the Trust.

## 17/51 Providing Translation and Interpretation Services

Ms McMeekin gave an overview of the Big Word contract which was awarded in June 2016 with an option taken up to extend for a further year. The contract was due to finish in June this year. She highlighted some of the issues faced including late cancellation and charging if a request was made and then cancelled within 7 days. She noted that the Trust would pick a new provider from the framework and ensure that the service level agreement was reflective of what the Trust had learnt and would include tighter parameters. Ms McMeekin asked if any governors were interested in helping with the procurement exercise. She also noted that the directorates would welcome some virtual interpretation and translation services which could provide a quick turnaround.

Ms McMeekin stated that unscheduled care did provide a challenge as these could not be booked in advance. She also noted that the British sign language service was struggling to meet demand. Mrs Miller suggested using computers and Ms McMeekin responded that computers are used occasionally, but it is more about face to face appointments.

Mr Reakes stated that the virtual system sounded good and Ms McMeekin stated that they were working through issues with IT.

Ms McMeekin stated that some of the issues with the Big Word were around customer service.

Mrs Thompson asked which other providers Trusts in the North use and Ms McMeekin responded that some also use the Big Word.

Mr Wright asked if volunteers from the Governors were required and Mrs Bolland, Mr Reakes and Mrs Miller stated that they would be glad to help out. Some Staff Governors would also be willing to help out.

## 17/53 Governor Elections Update (Internal)

The report was noted.

## 17/54 Membership Development Group Update

The report was noted.

## 17/55 Constitutional Review Group Update

Mrs Provins highlighted that Mr Lee should have been up for election in 2017. This would necessitate Mr Lee having a 4 year term and then going for re-election in 2018 for a 2 year term.

Ms Symington asked the group to review the decision not to include the out of area section as a constituency as this would help recruit NEDs in future. Mr Wright stated that Bournemouth Trust had an out of area constituency and he could provide a link to them. Ms Symington stated that 19 candidates had been ruled out of the recruitment due to be out of area restrictions. Mrs Miller stated that she thought the recruitment had been excellent even after 19 had been ruled out due to the number of candidates.

Mrs Provins will put this back on the agenda for the Group and bring it back to the Council for a vote.

**Action: Constitution Review Group to reconsider having an out of area constituency.**

## 17/56 Any Other Business

Mr Butler asked if the Council could receive a further update on the Alternative Delivery model once the model/governance was ready for communication.

**Action: ADM to be put on the agenda for the next meeting**

It was agreed that the Chief Executive slot would be put at the end of the agenda. Ms Symington hoped the Governors had received a balanced view of the current challenges and the Licence Investigation.

**Action: Chief Executive slot to be put at the end of the agenda**

Mrs Anness felt the CQC Report did not provide a good reflection of the great work being done by staff.

Mr Neale asked if any other ADMs would be created for other parts of the Trust and Ms Symington replied that this had not been discussed. Ms Symington did raise that the unions were worried that national terms and conditions would be eroded by these companies. She thought NHS contracts were outdated especially for low paid staff as the contracts were loaded with benefits when low paid staff may prefer to get higher wages instead of the benefits. In her view this may be an opportunity to change the way staff receive the money and this may need raising in the future. It was also noted by Mrs Thompson that clinical staff in the NHS had already been TUPE’d out to other companies such as Virgin.

Mrs Noble thought it would be useful for the executive team to do some walkrounds at the East Coast following the publication of the CQC Report as it would help morale. Ms Symington asked if the Scarborough/Bridlington Staff Governors could send an email to the Chief Executive about this.

## 17/57 Time and Date of the next meeting

The next meeting will be held on 14 June 2018 at Malton Rugby Club, Old Malton Road, MaltonYO17 7EY