

'You matter, we care'

Trust Board Meeting (Part 1)	Date: 25 March 2015
------------------------------	---------------------

Title:	DAC Beachcroft Governance Review feedback
Item:	BD/14/323

Executive Director lead and presenter	Emma Roberts, Director of Corporate Affairs and Company Secretary
Report author(s)	Ray Tarling, Governance Advisor, DAC Beachcroft

History:	<i>October Board, Part 2</i>
----------	------------------------------

This report is for:	
Decision	X
Discussion	
To Note	

The following impacts have been identified and assessed in relation to this report:	
Equality	<i>None identified.</i>
Quality	<i>None identified.</i>
Privacy	<i>None identified.</i>

Executive Summary of key issues
<p>The Trust engaged DAC Beachcroft to undertake a review of its committees and management groups to with a view to recommending areas for development to strengthen the Trust's governance arrangements.</p> <p>The review sought to assess the work of the committees and identify how they could better support the Board in the provision of assurance. It also sought to rationalise the governance structure to ensure our processes are streamlined and transparent.</p> <p>This report provides feedback on the outcomes of the review, undertaken by Ray Tarling, Governance Advisor.</p> <p>The Board should discuss the feedback and recommendations made.</p>

This report addresses these Strategic Priorities:

We will deliver the best care	
We will support and develop our staff	
We will continually improve what we do	X
We will use our resources wisely	X
We will be future focussed	X

1. Aim of the paper

This paper describes how Board committees could and should look, operate, be organised and led. The Board is asked to agree, or amend and then agree, this model for committees which will become the reference against which the development and operation of the committees will be measured.

2. Introduction

There is good practice now and committees are adding value and supporting the governance of the trust. However the effectiveness with which committees support the Board is neither universal nor consistent.

The most recent external review of Board governance undertaken concluded that Board committees were broadly speaking operating effectively and fit for purpose. The foundation trust assessment process also collected evidence to support the conclusion that the Trust's Board committees were complying with good practice.

This is not a trust that stands still and it has established a practice of periodically reviewing the effectiveness of its governance. It commissioned an independent review of the operation of its Board committees and management groups and their interrelationship which took place in the summer of this year. The Care Quality Commission (CQC) inspection in June reported in September also points to scope for further improvement.

The results of the commissioned external review are being used to inform this paper directly without the usual intermediary step of a formal report. To save time and enable immediate progress this paper draws on the review and proposes a rationale which if agreed by the Board would be the basis for immediate action to achieve worthwhile improvements in the effectiveness of the Board's committees.

A similar paper setting out issues arising from the review of management groups will be presented to the Senior Management Team in November.

This paper sets out in key areas a number of "givens" which the Board is asked to knowledge are self-evidently true or non-optional, "assumptions" which represent a set of desired outcomes which the Board is invited to adopt, and "conclusions" being necessary actions.

The Board is invited to debate and, if agreed, adopt this rationale. Changes to the scope, brief, working method, leadership, structure, support and evaluation of committees can then be designed and implemented at speed and with the confidence that will come from the knowledge that they will deliver a model of committee working which the Board has signed up to.

3. How should Board committees support the Board?

The Board's role is "governance" that is to say the system by which the trust is directed and controlled and the means by which the Board leads and directs the trust. This must also be the domain of the Board's committees because the only legitimate function of Board committees is to support the Board in fulfilling its governance role.

Using the four domains from the Well Led Framework, committees should be supporting the Board in delivering their responsibilities against each:

Strategy and planning

When the Board is setting strategy and planning, the committees should be providing support to aid the process of setting the direction for the organisation.

Capability and culture

When the Board is seeking to enhance capability and determine the trust's culture, the committees should be aiding it to take steps to ensure that both the Board and the wider trust have the appropriate experience and ability to positively shape the trust's culture to deliver safe care.

Process and structures

When the Board is seeking to design and implement processes and structures, the committees should be aiding it to ensure that reporting lines and accountability support effective oversight of the organisation.

Measurement

When the Board is measuring outcomes, the committees should be aiding the Board to ensure that it is receiving appropriate robust and timely information to support its leadership of the trust.

Any activity that falls outside these for broad categorisation is not a legitimate role for a Board subcommittee. Committees which spend time and divert resources to other activities are not making a worthwhile contribution to the governance of the trust and indeed can actively distract or otherwise impede those engaged in both governance and management from fulfilling their responsibilities.

Directed and deployed correctly, Board committees can help the Board to reconcile the strategic dilemmas it faces. These include:

- *Reconciling the maximum possible delegation with effective control.*
- *Reconciling innovation with prudence.*
- *Focusing on both the day-to-day and the long-term.*
- *Achieving quality, safety, performance standards and financial performance.*
- *Ensuring that the trust is delivering services which are safe, effective, caring responsive and well lead.*
- *Reconciling the strategic interests of the trust as an organisation with the benefits to the community at large.*

Acting in this way, Board committees can free up and enable the Board itself to spend its time as a whole Board in its four governance domains.

The committees also support the unitary Board by providing a place and a space for executive directors to debate and challenge and non-executive directors to shape and determine the direction of the trust.

It is the fundamental role of the Board subcommittee to allow and assist the Board to be "assured". Remembering always that assurance is defined as "confidence based on evidence" committees add value by collecting and evaluating that evidence.

Committees should support the Board by:

- Sharing with the Board the evidence providing assurance that all is as it should or,

- Identifying and initiating action and then collecting evidence to show that the outcomes have been successful or,
- Concluding that the issues remain unresolved and must therefore be escalated for the Board to deal with itself.

The Board can and should delegate to its committees the task of scrutiny and some responsibility for decision-making. The Board cannot delegate sovereignty, accountability, ultimate responsibility or liability.

Board subcommittees should guard against fulfilling, or appearing to fulfil, a management role but they should help the Board to hold the trust managers to account via the accountability framework.

The role of all Board subcommittees is strategic and they should guard against the risk of being overwhelmed by information but they cannot fulfil their strategic role without scrutiny of appropriate detail.

Without stifling innovation, the pattern of support from its committees which is agreed by the Board to be most effective should be observed consistently in each committee. Effective committee operation relies on questions of balance and judgement, but these are decisions for the Board rather than individual committees to take.

Recommendation:

The Board is asked to agree this expression of the proper role of the Board committee in supporting the Board in its governance of the Trust.

4. What should be the scope of each Board subcommittee?

Boards are required to set up an Audit Committee supporting them in that aspect of their governance role which is the stewardship of public funds and a Remuneration Committee (by whatever name called) to deliver its responsibilities for the appointment and remuneration of directors. Aside from these "statutory committees" it is open to the Board to decide which committees will serve it best and how to allocate roles between them.

In making that decision, each of the governance tasks of the Board should be assigned to one Board subcommittee in order that the committee can assist the Board in delivering its governance responsibilities.

No task should be shared in the sense that it is jointly owned. Committees should certainly work together (and communicate with management groups) to ensure that the committee that "owns" the task is aided and supported by the contribution and insights of the others to do so.

Once it becomes a foundation trust the Board will be specifically required under its licence to assure itself and assure monitor that it has systems and processes in place against a specific and identified list of governance requirements set out in an appendix to the licence, the first priority is therefore to map each of these issues identified in the licence to an appropriate Board subcommittee.

The second priority is to review the Well Led Framework adopted by the Care Quality Commission, Trust Development Authority and Monitor for further strategic aspects of governance not covered in the above and where the Board will also benefit from specific support from subcommittees.

The remaining priority is to map and assign any local issues and any remaining generic issues that may not already have been identified ensuring always that these are governance issues.

This will ensure that when the Board is seeking to answer the 10 key questions under the four domains of the Well Lead Framework it would be directly and specifically supported by identified subcommittees in that task and the assurance will be underwritten by evidence which that subcommittee has identified, collected and evaluated according to the Trust's systems and processes which that subcommittee overlooks.

The terms of reference of each subcommittee should be the written around the areas of activity mapped against the key governance tasks of the Board as described above.

The workplan and agenda of each subcommittee should then be designed to ensure that each area of the assigned scope of the committee does indeed receive regular attention during the course of each year and that in addition the scrutiny of the committee is focused on ensuring the desired outcomes and achieving the examples of good practice as also set out in the Well Led Framework and elsewhere.

It would be then be possible to read across from the Boards governance tasks through the scope assigned to each committee and ultimately to the work plan and agenda for committees to see that there is complete conformity without gaps or overlaps.

Recommendation:

The Board is asked to agree that the scope, terms of reference, work plan and agendas of all subcommittees should be derived and maintained as expressed here.

5. Who has responsibility for the effective operation and contribution of each subcommittee?

The Board of directors itself presents a model which should be adopted by its subcommittees. The Board is effective due to an effective partnership between the Chair and the Chief Executive.

The Trust Chair is responsible for the effective conduct and operation of the Board as such including encouraging and appraising the contribution of members of the Board in Board meetings. The Chair is particularly responsible for ensuring that non-executive directors fulfil their special (but not exclusive) role in seeking assurance.

In respect of the operation of the Board, the Chief Executive's contribution is to bring to the Board the information it needs in order to be able to make the decisions which are its responsibility to make and to monitor the outcome based on reliable and validated information. It is also the Chief Executive's responsibility to ensure appropriate and effective follow-up action guaranteeing that the Board's resolutions result in outcomes.

Neither the Chair or the Chief Executive alone could deliver the successful operation of the Board. That outcome relies on their joint ownership and joint responsibility for effective Board working. This partnership needs to be reproduced and put into effect in all the Board's subcommittees.

The two roles should be set out in the terms of reference of the committees, in the appointment letters of committee chairs, in the job descriptions of the appropriate executive directors and should be the basis for personal development plans and appraisals.

This partnership should have both periodic and ongoing responsibilities both mandated by the Board.

Periodically

The committee chair and designated executive director on each subcommittee should:

- Keep the scope of the committee under review and up to date recommending changes to the Board whenever appropriate,
- Draw up and maintain a rolling annual workplan to deliver the assigned scope of the subcommittee,
- Ensure that the selection of agenda items for each meeting and the balance between them will bring about the delivery of the workplan over the course of the year,
- Lead the annual process of appraising the effectiveness committee measuring success against its scope, workplan and governance role.

Ongoing

On an ongoing basis the Chair and designated executive director on each subcommittee should:

- Ensure the committee keeps to its terms of reference and workplan in setting agendas,
- Resist the upward drift of information without purpose such as the escalation of unresolved issues before a committee has attempted to deal with the issue,
- Police and exemplify appropriate behaviour and discipline in the committee,
- Challenge and control presence of attendees,
- Control the frequency and consistency of the attendance of members of the committee,
- Police the effective use of committee time,
- Police the preparation and quality of papers and presentations including their format and timelessness,
- Ensure follow-up actions arising from committee issues are all tracked so that there is a clear understanding for each of what has been done and what will be done next,
- Ensure that committees have a system and process focus,
- Ensure that the assurance demanded by and supplied to committees is valid assurance (and not reassurance) by insisting that there is always evidence,

- Making connections between the committee and relevant management groups and between the Board of Directors and the management structure, maintaining the pressure to delegate responsibility as far and as often as possible to clinical directors and the localities they lead,
- Be alert to deference and encourage challenge,
- Be alert to and immediately counter any committee drifting from a governance role towards management,
- Ensure that the committee conducts its business by following the process steps set out in the next section.

Recommendation:

The Board of Directors is asked to agree this expression of the fundamental role of the committee Chair and lead executive director working in partnership.

6. What should a Board subcommittee actually do?

Board subcommittees receive, discuss and process a great deal of information in the course of the year but, in the light of experience of issues which have either not been identified or not resolved, not always effectively or productively.

The actual work of subcommittees can become much more effective if the committee leadership ensure that it deals with each assigned issue according to a standard process encompassing five distinct steps. These steps describe the value added by the committee and are the basis on which the committee should manage its business to make sure that it is indeed identifying and resolving issues in a supportive manner.

These five steps are capture, consideration, connection, checking and closure.

Capture

As the extended eyes and ears of the Board, committees are in a position to capture, collect, harvest and receive information that would not otherwise come to the Board's attention which might indicate a weakness in either the trust's governance or management arrangements.

Sometimes the Board will remit an issue to the committee, on other occasions committees will be presented with information arising from their own visits to or inspections of areas in which care is delivered. It will be appropriate for committees to share information with each other.

The important point here is that committees must always be alert to the opportunities which arise to become aware of issues on which they can then focus attention to determine if they are indeed the "smoke" that indicates "fire", in which case action needs to follow immediately and it may appropriate to alert other parts of the trust.

Consideration

All information captured by all presented to the committee should be reviewed, analysed, tested and validated and prioritised in order that the committee can form a judgement and decide what action should result. Committees should not pass over any indications of events or performance outwith normal parameters without forming a judgement.

Connection

Without the delay involved in referring issues to the Board, committees should take the opportunity to initiate action. This will sometimes be assigning responsibility, allocating tasks, authorising investigation or delegating responsibility-all as mandated by the Board in the committee's terms of reference. Much time can be saved if action is initiated directly following committee discussion.

Checking

The committees should actively and frequently monitor and follow-up the actions taken as a result of the decisions that they have made. Where necessary they should initiate further and follow-up action to progress appropriate activity. Committees should be particularly sensitive to the distinction between actions and the outcomes they are designed to achieve and, on the Board's behalf, persevere with their enquiries until they are assured that the appropriate outcomes have resulted.

Closure

Having passed through the stages above, the final stage for any issue considered by the committee should be:

Either

The issue can be reported to the Board as resolved and removed from the workplan,

Or

The issue was escalated to the Board for the Board itself to resolve and removed from the committee work plan.

In either case the outcome should be reflected in the annual evaluation of the work of the committee.

Recommendation:

The Board is asked to agree that it's subcommittees ought always to ensure that they capture issues of potential governance concern and that, having done so, they deal with each as expressed above.

7. Who should serve on committees and who should attend?

As a foundation trust, in order to have delegated powers from the Board, the members of committees may only be full voting directors of the Board and for that reason this trust should adopt that rule now.

In any unitary Board and in their capacity as directors, all directors are equal but non-executive directors have a particular (but non-exclusive) role in seeking assurance through questioning, challenge and initiating debate.

Executive directors inevitably and appropriately have a major role in supplying that assurance by answering those questions, producing the evidence, participating in the debate and taking responsibility for action.

All directors have an equal and shared responsibility to form a judgement, to decide what should be done, to ensure that action is initiated and to monitor the outcome.

To be effective therefore, committees need a sufficient numbers of and diversity of skills among the non-executive directors present so that the challenge and debate can be effective and lead to productive outcomes.

Board committees need executive Board directors at the table in order that they can take responsibility for the accuracy of the information presented to the committee and effectiveness of actions.

Committees should require the attendance only of other managers who can add detail or supply explanation beyond what it is reasonable to expect from executive directors and then for those items only.

The independence of and diversity of non-executive directors is one of the key contributors to the success of healthy Boards. For that same reason Boards need an adequate number of sufficiently experienced non-executive directors to make that possible given the workload. Non-executive directors should be in the majority on Boards of directors and the Board subcommittees should be no different.

In fact, given that the focus in a Board committee is predominantly on seeking assurance rather than making decisions, the argument is for a non-executive director majority is actually stronger.

The number and frequency of Board committees and the recruitment, succession planning and development of non-executive directors should permit two non-executive directors on each committee in addition to the non-executive committee Chair who should themselves be chosen so as to bring skills and experience of particular relevance to the scope of that committee.

Recommendation:

The Board of directors is asked to agree the rationale for committee membership and attendance set out above.

8. What should be the relationship between committees and managers, the management structure and management groups?

Trust managers who deliver assurance to committees and take away responsibility for delivering actions should be the executive directors who either serve as members or are required to attend and identified as such in the terms of reference.

Other managers should only be present if absolutely necessary. The definition of "necessary" might include knowledge of specialist information or a degree of detail beyond which that which an executive director might be expected to possess.

Board committees sit outside the management structure and must be kept distinct from it. Managers or management groups should not be accountable to a Board committee. It would however be appropriate for managers to be required on occasion (by their managers) to provide information to Board committees. It would also be appropriate for or management groups to provide information to Board committees.

The delegation of the responsibility for the management of clinical services to localities is one of the strengths of the trust. Now that the localities have been in place for a

sufficient period of time and the semiautonomous status of localities can best be maintained and supported if the clinical directors (via the appropriate Executive Director) are held to account for sourcing accurate information to the committees and if the performance information reviewed by committees provides evidence to the committee on behalf of the Board that the clinical directors are indeed effectively in control of the locality for which they are accountable and responsible as the Board intended.

The status of the clinical directors as the accountable leaders of localities would however be compromised if other members of the triumvirates frequently or routinely appear before, or represent, this the localities in committee discussions.

To achieve an accurate view, committees (like the Board) should certainly consistently triangulate and validate to ensure that they are fully and accurately sighted about the situation at "ward" level. Recent CQC comments emphasise the importance of this visibility. However, the contact with locality staff necessary to provide that assurance should not bypass the ultimate accountability of the clinical directors through the appropriate Executive Director to the Board.

Recommendation:

The Board of directors is asked to agree this expression of the appropriate relationship between Board committees and managers.

9. Conclusion

To make the further changes now necessary to achieve the maximum value for the time and resources invested in servicing and attending meetings of the Board's subcommittees, the Board must first make a clear statement about "what good looks like".

If agreed by the Board, the principles set out above would be the basis for rapid action to implement, embed and sustain those principles by practical measures which will include:

- Mapping the governance role of the Board to its committees, their terms of reference, work plans and agenda,
- Ensuring that the conduct of and process followed by committees delivers effective assurance,
- Mandating the Chairs and the appropriate Executive Director on each committee to work in effective partnership to lead the committees,
- Maintaining an effective relationship with the management structure that supports but does not counter those managers' personal responsibility for the delivery of safe and effective care.

This paper has asked the Board to **agree**, or to amend and then agree, the rationale set out for Board committees.

With agreement to these principles as its foundation, action can then be taken to ensure that contribution to Board governance made by all committees equals the current contribution made by the best of them.