

EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST

REPORT TO: **BOARD OF DIRECTORS**

DATE: **27 MARCH 2015**

SUBJECT: **CORPORATE RISK REGISTER – TOP 10**

REPORT FROM: **CHIEF NURSE AND DIRECTOR OF QUALITY**

PURPOSE: **Discussion**

CONTEXT / REVIEW HISTORY / STAKEHOLDER ENGAGEMENT

This document provides the Board of Directors' (BoD) with an update of progress as at 19 March 2015 with the top 10 risks on the Corporate Risk Register (CRR). This report includes changes that occurred since the last Quality Assurance Board (QAB) in February. The top 10 risks were last received by the Board of Directors at the December 2014 meeting; the full register was reviewed by the Board in January 2015. The top 10 risks were last reviewed by the Integrated Audit and Governance Committee on 09 October 2014 and the full register was reviewed on 19 January 2015. The emerging risks were reviewed by the Management Board on 18 March 2015.

SUMMARY

There are four risks with an unmitigated risk score of 25 and five with a score of 20. The top nine include:

- the quality, safety, financial and reputational consequences associated with the CQCs' published report into the Trust the internal financial efficiency programme;
- the deterioration in A&E performance standard and the potential risk to patients waiting longer than four hours;
- the external financial risk associated with CCG demand management, contract negotiations and financial challenges;
- the increased risk to patient safety associated with inefficient clinical pathways/patient flow and delayed transfers of care, resulting in extra beds;
- the consistent poor performance in the staff survey results and staff feeling they are not engaged in decision-making that affects them;
- local and national difficulties in staffing and recruitment;
- cancer treatment delays associated with aseptic service;
- Internal operational performance targets.

The risk associated with the findings of the CQC report is the number one risk affecting the organisation currently.

The emerging risks were discussed at the Management Board and Quality Assurance Board (QAB) in March; these are further explored in the attached paper. The decision taken at that time was not to add these risks onto the register but to maintain a close overview of any significant changes, which may affect that decision.

New	One	<ul style="list-style-type: none"> Health and Safety compliance
Reduced	None	
Increased	None	
Substantially changed	One	<ul style="list-style-type: none"> HCAI – Clostridium difficile infections (CDI) remain above trajectory; the surgical division have exceeded their targets for the year
Removed	None	
Emerging	Seven	<ul style="list-style-type: none"> Employment issues associated with the Kent Pathology Partnership (KPP) The management of governance and risk arrangements within KPP Quality and safety systems within KPP Staffing difficulties within the Speech and Language Therapy (SaLT) service CQC Fundamental Standards - Legal Duty of Candour and fining for breaches Ultra clean air vertical laminar flow units Potential patient safety issues associated with the treatment of cholesteatoma

Discussions have taken place with the Trust Secretary on the improved integration of the risks outlined within the Board Assurance Framework and the Corporate Risk Register.

RECOMMENDATIONS:

The BoD is asked to review the paper and associated attachments and decide if they are a true representation of the top 10 risks affecting the Trust currently.

NEXT STEPS:

An updated position will be presented to the QAB in April 2015.

IMPACT ON TRUST'S STRATEGIC OBJECTIVES:

The Strategic objectives and BAF will ultimately drive the Annual Governance Statement, which represents the Trusts' ability to identify and manage risks effectively. Failure to demonstrate a consistent approach to the mitigation and control of risks can impact considerably on the effective delivery of the Trust's strategic and annual objectives.

LINKS TO BOARD ASSURANCE FRAMEWORK:

There is an integral link to the Board Assurance Framework that runs through all the risks on the risk register; there is a specific link to A03.

IDENTIFIED RISKS AND RISK MANAGEMENT ACTIONS:

The attached risk register is a distillation of the top 10 risks affecting the Trust and the mitigating actions in place.

FINANCIAL IMPLICATIONS:

Actions to mitigate certain risks have considerable impact on Trust expenditure; financial risks are now quantified in terms of single or cumulative costs. Failure to mitigate some risks will also result in financial loss or an inability to sustain projected income levels.

LEGAL IMPLICATIONS / IMPACT ON THE PUBLIC SECTOR EQUALITY DUTY:

The Trust could face litigation if risks are not addressed effectively. The aim of the Public Sector Equality Duty is relevant to the report in terms of the provision of safe services across the nine protected characteristics.

PROFESSIONAL ADVICE TAKEN ON ANY NOVEL OR CONTENTIOUS ISSUES

Not applicable

BoD ACTION REQUIRED:

(a) to discuss and determine actions as appropriate

CONSEQUENCES OF NOT TAKING ACTION:

The Trust will continue to face unmitigated risks which may result in a worsening of the current position.

Summary

1.1. Explanation

This document provides the Board of Directors' (BoD) with the top 10 risks on the corporate risk register as at 19 March 2015. The full Corporate Risk Register was received by the Risk Management and Governance Group (RMGG) on 23 July 2014 and the top 10 risks were reported at the meeting of the Quality Assurance Board (QAB) on 04 March 2015. This report includes changes that occurred since the March meeting. The full register was last presented to the Board at the January 2015 meeting, the top ten risks were reported at the meeting on 17 December 2014. The full risk register was also reviewed by the Integrated Audit and Governance Committee on 19 January 2015. The financial risks were presented to QAB the March 2015 meeting. There are changes to the financial risks associated with the signing of the capped PbR contract for 2015/16 in terms of the external risks as currently outlined in the Corporate Risk Register. The internal risks around financial efficiencies, their controls and the cost improvement programmes remain. The external risks associated with increased clinical activity over the current contractual performance have been revised. This will be managed by the Finance and Investment Committee (FIC) and the workplan for the committee revised. Emerging risks were discussed at the Management Board in March and section 1.7 outlines the discussion held.

The Corporate Risk Register outlines descriptions of the risks, mitigating actions, residual impact following the action, and cumulative outline of action taken. Progress is being made across each area of risk in pursuing the necessary actions to control and mitigate the risks. Risks associated with Health and Safety legislation are as indicated on the register.

The 10 highest areas of risk are:

Rank	Risk Number	Summary
1	57	Quality, safety, financial & reputational consequences associated with the CQC's published report
2	34	A&E performance and emergency pathways
3	27	Internal - Financial Efficiency Improvements and Control
4	29	External - CCG Demand Management, Contract Negotiations and Financial Challenges
5	3	Patient safety, experience & effectiveness compromised through inefficient clinical pathways/patient flow
6	59	Poor staff survey results and evidence of staff engagement
7	60	Difficulty in recruitment of staff against vacancies and national shortages in some hard to recruit posts
8	54	Delays in cancer treatment and potential issues with MHRA compliance due to temporary closure of the aseptic service
9	30	Internal - Operational Performance Targets
10	15	Ability to maintain continuous improvement in reduction of HCAIs in the presence of existing low rates

1.2. Significant changes to the Register since March 2014 – One

- 1.2.1. **Risk 15 - Ability to maintain continuous improvement in reduction of HCAIs in the presence of existing low rates.** Currently there is one case of MRSA

bacteraemia assigned to the Trust to date during this financial year. Three cases were reported; both pre-48 hour.

The recent performance against the Clostridium difficile target has shown sustained improvement in January and February, despite a period of increased activity. There were three cases reported to date in March 2015, which takes the Trust to the year end trajectory of 47 cases. The mitigating actions outlined below appear to be reducing the risk.

A recovery plan is in place including the implementation of Hydrogen Peroxide vapour system (HPV) for high level disinfection of clinical areas Trust wide as appropriate. A revised diarrhoea risk assessment tool has been developed and is fully operational across the Trust. In addition, the IPCT are implementing the HOUDINI protocol to improve the management of urinary catheters with regard to strict criteria for insertion and removal which will be audited. Compliance against the HOUDINI protocol forms a component of the Trust's submitted Patient Safety Programme for the next three years.

The target of 47 cases for the year is a risk but there is no intention to reduce the risk scores. This will however be reviewed as part of the re-assessment for 2015/16.

1.3. Risks decreased in March 2015 – None

1.4. Risks increased in March 2015 – None

1.5. Risks removed from the Register in March 2015 – None

1.6. Risks added to the Register in March 2015 – One

1.6.1. Risk 62 – Health and safety non-compliance

The Trust was issued with three further Health and Safety Improvement Notices following their visit in October 2014. The risk has been added to the Strategic Development and Capital Planning divisional risk register and a separate action plan has been developed. The areas of non-conformity were similar to those issued by the HSE in previous inspections and include:

- Lack of competent persons to fulfill statutory compliance
- Failure to comply with the Lifting Operation and Lifting Equipment Regulations 1998 (LOLER) within the specified time frame.
- Failure to comply with the examination and testing of Local Exhaust Ventilation systems.

The governance and reporting arrangements for Health and Safety were discussed at Management Board in March with a proposal to increase the reporting to the Board of Directors' from six to three monthly. The unmitigated risk is scored at 9 and the post mitigation score at 6, with a plan to complete the outstanding action by September 2015.

1.7. Emerging risks

- 1.7.1. The Kent Pathology Partnership (KPP) is due to commence shortly. There are several areas that have been raised as a risk. The outcome of the staff consultation was sent to all affected staff on 26 February 2015. This included an extended timeline of 09 March 2015 to consider the move to MTW. A meeting with the Trade Unions took place on 25 February; there is a service delivery risk and financial risk due to the potential redundancy costs. There is a further specific staffing risk within microbiology as, since October 2014 15 staff have left or indicated their intention to leave. There are several individuals on long term sick leave and four with job interviews in the coming weeks. This reflects a considerable loss of expertise and knowledge. Currently 37% of staff are on fixed term contracts against a background of a funded establishment of 46. There have been some mitigating actions discussed to ensure the service continues in a safe way from 01 April 2015. These include flexible working patterns, including long days, weekend or night working, arrangements for transport, specifically for those staff relocating to MTW from the Margate area and possible relocation expenses for staff who wish to move on a permanent basis to Maidstone. These options will be discussed as part of the meetings arranged with trade Unions and as part of the wider communication strategy with staff.
- 1.7.2. The management of governance and risk in KPP is described as a separate emerging risk. The structure of the KPP Board was approved by the Boards of Directors' at both trusts and in principle is clear. The business case also outlines the governance arrangements for KPP; however, there is currently no approved management or reporting structure to which staff can refer. There is also a lack of clarity about reporting and managing issues around clinical governance e.g. complaints, incidents, claims etc. as well as financial and information governance arrangements, which needs to be established at a more granular level. The governance arrangements and reporting to the Board of Directors' at the respective trusts also requires clarification. A meeting took place between the two trust divisional directors on 27 February in order to identify the structure and the reporting arrangements that need to be in place
- 1.7.3. The current Clinical Pathology Accreditation (CPA) process is to cease and the accreditation system will under new ISO 15189:2012 standards. Clinical Biochemistry will be the first discipline to undergo this inspection, a date for which is yet to be set. Rather than the current four yearly full inspections and two yearly surveillance visits made by the CPA, ISO inspectors undertake an annual inspection of each discipline. There will now be a requirement for validation and verification, measurement uncertainty and traceability in all aspects of work. A change in practice will mean a change to scope and another potential visit from the ISO inspectors. Audit will also need to be more robust, slippage will not be optional and ISO will expect to see a full audit calendar completed as planned or full accreditation may be lost. Closure of audit non-conformances will need to be thorough and timely: this is currently not consistently well monitored.

In the proposed KPP management structure there is one 8a Quality and Governance lead with a band 7 deputy Quality and Governance role. The risk and governance of KPP will need to ensure quality of care, CQC compliance; NICE guideline and DH initiatives are all implemented. Separate assurance will be required to the Boards of both trusts that robust and timely risk management is in place and that any investigation i.e. RCA, SI, AAR complaints and claims are all managed appropriately and in the timeframes specified. Robust monitoring of incidents will be essential over such a large organisation to ensure risks are identified and mitigated as soon as possible.

- 1.7.4. Speech and Language Therapy (SaLT) services are a risk due to low staffing levels. The number of additional beds open has further increased demand for this service. SaLT services at the QEQM and K&CH were staffed by Kent Community Health Trust (KCHT) via an SLA until April 2014 when the staff became Trust employees under Transfer of Undertaking (Protection of Employment) arrangements (TUPE). Several members of staff had resigned prior to the TUPE and further staff have resigned since the change. SaLT services at WHH have always been EKHUFT employees and provide both in-patient and out-patient services. The service at QEQM and K&CH covers in-patients only and SaLT are not attracted generally to these posts as the diversity is limited. Consequently the recruitment to vacant band 6 and 7 roles has proved very difficult. Band 5 posts have been recruited to, but new graduates do not have the necessary competencies to manage the high risk patients with dysphagia without supervision. The band 8a service lead is part time rather than the recommended full time post which would offer more leadership across the sites.

Actions to be taken in the short term are as follows:

- Recruitment into SaLT vacancies continues
- Discussions with KCHT are taking place with a proposal to them taking over community and outpatient activity in the Ashford area.

Actions to be taken in the long term are as follows:

- Consideration of service transfer to KCHT as a whole as they have the flexibility and diversity of specialties/service areas to attract and retain staff.
- The Trust will then need to develop an SLA with KCHT for the in-patient service. A second option is to tender the service to another provider.

The highest priority in terms of patient safety concerns dysphagia management.

- 1.7.5. CQC fundamental standards, which replace the current 16 essential standards for quality and safety. Two standards came into force on 27 November 2014 for the acute sector; these are the duty of candour and the fit and proper person's requirements. The remainder come into force from April 2015. The duty of candour places a legal duty on the Trust to notify patients and relatives in writing when an incident resulting in moderate or severe harm or death occurs during an episode of care. Once the patient has been told in person about the notifiable patient safety incident, the organisation must provide the patient with a written note of the discussion, and copies of correspondence must be kept. The statutory duty of

candour will be brought about through CQC registration regulations. There is a potential for any NHS organisation to be fine for any confirmed breach of this regulation equivalent to £2,500 per breach.

There are further changes mooted by the NHS Litigation Authority (NHSLA) whereby an NHS Trust has breached the statutory duty of candour about a patient safety incident which results in a claim, the NHS LA could have the discretion to reduce or remove that Trust's indemnity cover for that claim. This proposal could result in individual trusts having the liability for the component of a claim that the NHSLA fail to cover.

- 1.7.6. The current ultraclean air (UCA) vertical laminar flow units within theatres 7 and 8 at the QEOMH are not working to 100% efficacy. The use of UCA is considered essential by the British Orthopaedic Association (BOA) elective primary and revision joint surgery and major orthopaedic procedures. Whilst the UCAs are only working at 85% efficacy, this poses an infection risk to patients and the provision of elective joint surgery is at risk.

The divisional medical director and director met on 19 January 2015 with the Infection Control Team. The shortfalls in performance were not known until January 2015 and consequently, elective patients have been treated in these theatres over the past three months. A review of the infection risk associated with this patient cohort has shown no infections, which could have been avoided by the use of a UCA function; one patient did have an E coli infection over the past six month period. An interim contingency is planned in order to allow the planned lists to continue whilst a full assessment and repair of the UCA laminar flow is made, however no elective joints will be done in these theatres and they will be used for any procedure which does not require a UCA function.

The current provision of UCA laminar flow at the WHH does not allow all patients requiring elective primary or revision joint surgery to undergo their procedures in an operating theatre dedicated for this purpose. This means that there is a different standard of treatment for these patients. The Trust is one of the very few hospitals in the UK and Europe not undertaking all elective primary or revision joint surgery UCA laminar flow environment. A review of the literature shows a marginal increase in the rate of infection for patients treated under a UCA laminar flow function; however failure to provide this environment may place the Trust at risk from the ability to defend any claim arising from this surgery.

- 1.7.7. The surgical division highlighted an emerging risk at the Management Board on 18 March 2015. Eight patients to date have represented to the Trust after having undergone Day case procedures for the treatment of Cholesteatoma under the care of the same consultant surgeon. These patients now require very complex surgery with an increased risk of hearing loss. This consultant is now retired from the Trust, but is still practising in a private capacity. In order to understand more clearly the scope of the problem, a review has commenced of the past activity under this consultant.

2. Risk Register and impact on the Annual Governance Statement

- 2.1. The system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the policies, aims and objectives of East Kent Hospitals University NHS Foundation Trust, to evaluate the likelihood of those risks being realised and the impact should they be realised, and to manage them efficiently, effectively and economically.
- 2.2. The gaps in controls identified for the revised performance risks will impact on the Annual Governance Statement for 2014/15 and the internal systems currently in place to control and manage risk effectively.

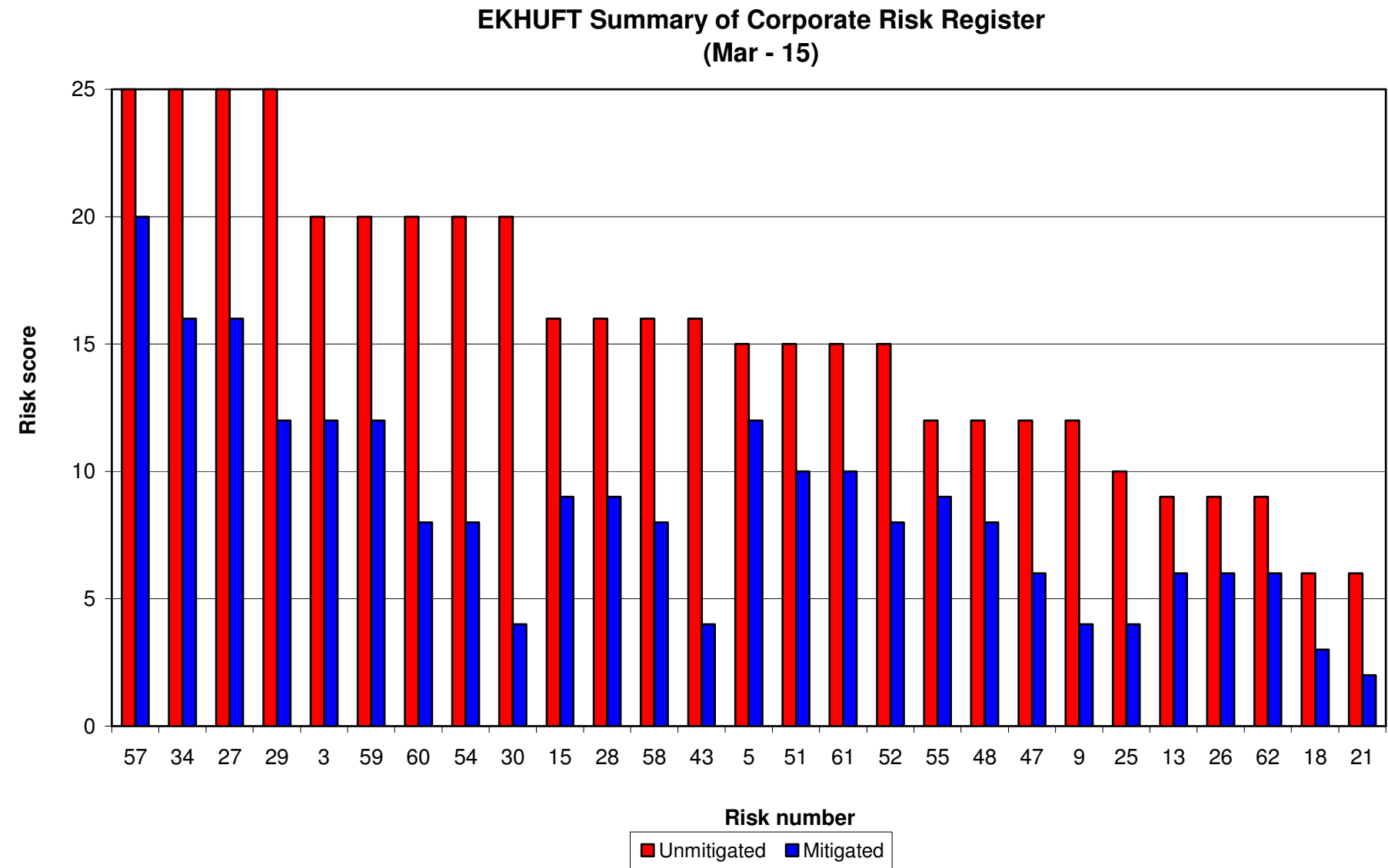
3. The Board are requested to:

- 3.1. Note the report, discuss and determine actions as appropriate and approve the revised risk register.

4. Pre and Post Mitigation Scores

Current order	Risk number	Unmitigated	Mitigated	Description	Last Reviewed	Review Contact
1	57	25	20	Quality, safety, financial & reputational consequences associated with the CQCs' published report	Jan-15	Stuart Bain
2	34	25	16	A&E performance and emergency pathways	Dec-14	Giselle Broomes
3	27	25	16	Internal - Financial Efficiency Improvements and Control	Feb-15	David Bains
4	29	25	12	External - CCG Demand Management, Contract Negotiations and Financial Challenges	Feb-15	David Bains
5	3	20	12	Patient safety, experience & effectiveness compromised through inefficient clinical pathways/patient flow	Nov-14	Julie Pearce
6	59	20	12	Poor staff survey results and evidence of staff engagement	Nov-14	Sandra Le Blanc
7	60	20	8	Difficulty in recruitment of staff against vacancies and national shortages in some hard to recruit posts	Dec-14	Sandra Le Blanc
8	54	20	8	Delays in cancer treatment and potential issues with MHRA compliance due to temporary closure of the aseptic service	Oct-14	Mary Tunbridge/Obafemi Shokoya
9	30	20	4	Internal - Operational Performance Targets	Feb-15	David Bains
10	15	16	9	Ability to maintain continuous improvement in reduction of HCAIs in the presence of existing low rates	Feb-15	Sue Roberts
11	28	16	9	External - Cost and Income Pressures including Technical Changes	Feb-15	David Bains
12	58	16	8	Effective diagnosis and management of sepsis	Jan-15	Michelle Webb
13	43	16	4	Embedding Divisional Quality Governance	Nov-14	Helen Goodwin
14	5	15	12	Failure to meet 18 weeks RTT	Dec-14	Jane Ely
15	51	15	10	Business continuity and disaster recovery solutions for Trust wide telephony	Oct-14	Andy Barker
16	61	15	10	Staffing shortfalls and substantive vacancies within the finance team	Feb-15	David Bains
17	52	15	8	Clinical and patient safety risk associated with the delayed implementation of the PACS/RIS	Aug-14	Mary Tunbridge
18	55	12	9	Failure to meet and sustain the 62 day cancer targets for urgent GP and screening referrals	Nov-14	Jane Ely
19	48	12	8	Transport Service to a new national provider - possible DTOC during transition phase	Jan-15	Finbarr Murray
20	47	12	6	Winter planning and capacity management	Sep-14	Jane Ely
21	9	12	4	Loss of clinical reputation due to unmitigated patient safety risks	Oct-14	Michelle Webb
22	25	10	4	Management of complaints and patient experience	Nov-14	Sally Smith
23	13	9	6	Age and Design of Trust constraint EKHUFT being top 10 in England	Jan-15	Finbarr Murray
24	26	9	6	Profile and effectiveness of the clinical audit function	Oct-14	Robin Ufton
25	62	9	6	Health and Safety compliance	Mar-15	Finbarr Murray
26	18	6	3	Complexities of Managing the Market	Jan-15	Rachel Jones
27	21	6	2	Blood transfusion process - vulnerable to human error	Feb-15	Angela Green

5. Highest risk post mitigation



Appendix 1 - scoring methodology

Risk Scoring Matrix (Financial values have been added to these levels)

CONSEQUENCE / IMPACT FOR THE TRUST	
LEVEL	DETAIL DESCRIPTION
1	Negligible - no obvious harm, disruption to service delivery or financial impact. Reputation is unaffected.
2	Low - The Trust will face some issues but which will not lower its ability to deliver quality services. Minimal harm to patients; local adverse publicity unlikely; minimal impact on service delivery. Financial impact up to £1 million non recurrent/one off or up to £2 million over 3 years.
3	Moderate – The Trust will face some difficulties which may have a small impact on its ability to deliver quality services and require some elements of its long term strategy to be revised. Level of harm caused requires medical intervention resulting in an increased length of stay. Local adverse publicity possible. Financial impact between £1 million and £3 million non recurrent/one off, or between £2million and £ 6million over 3 years.
4	Significant – The Trust will face some major difficulties which are likely to undermine its ability to deliver quality services on a daily basis and / or its long terms strategy. Major injuries / harm to patients resulting in prolonged length of stay. External reporting of consequences required. Local adverse publicity certain, national adverse publicity expected. Likelihood of litigation action. Temporary service closure. Financial impact between £3million and £5million non recurrent/one off or between £6 million and £10million over 3 years.
5	Extreme – The Trust will face serious difficulties and will be unable to deliver services on a daily basis. Its long term strategy will be in jeopardy. Serious harm may be caused to patients resulting in death or significant multiple injuries. Extended service closure inevitable. Protracted national adverse publicity. Financial impact at least £5 million non recurrent/one off, or at least £10 million over 3 years.
LIKELIHOOD OF RISK CRYSTALLISING	
LEVEL	DETAIL DESCRIPTION
1	Rare - may occur only in exceptional circumstances. So unlikely probability is close to zero.
2	Unlikely - could occur at some time although unlikely. Probability is 1 - 25%.
3	Possible – reasonable chance of occurring. Probability is 25 – 50%.
4	Likely – likely to occur. Probability is 50 – 75%.
5	Almost Certain – Most likely to occur than not. Probability is 75 -100%.

		Impact				
		1	2	3	4	5
Likelihood	1	L	L	M	H	H
	2	L	L	M	H	E
	3	L	M	H	E	E
	4	M	M	H	E	E
	5	M	H	E	E	E

E	Extreme Risk - immediate action required
H	High Risk - senior management attention required
M	Moderate Risk - management responsibility must be specified
L	Low Risk - manage by routine procedures

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13	43	16	4	Embedding Divisional Quality Governance	Nov-14	Helen Goodwin
14	5	15	12	Failure to meet 18 weeks RTT	Dec-14	Marion Clayton
15	51	15	10	Business continuity and disaster recovery solutions for Trust wide telephony	Oct-14	Andy Barker
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