

**EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST**

REPORT TO: **BOARD OF DIRECTORS**

DATE: **24 APRIL 2015**

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

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

PURPOSE: **Information and discussion**

**CONTEXT / REVIEW HISTORY / STAKEHOLDER ENGAGEMENT**

This document provides the Board of Directors' (BoD) with an update of progress, as at 16 April 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 April 2015. The top 10 risks were received by the Board of Directors at the March 2015 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 14 April 2015 and the full register was reviewed on 19 January 2015. The emerging risks were reviewed by the Management Board on 15 April 2015.

**SUMMARY**

There are four risks with an unmitigated risk score of 25 and six with a score of 20. The top 10 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 internal financial efficiency and control;
- 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;
- Board stability and potential loss of organisational memory with significant changes to the BoD;
- 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 and new risks were discussed at the Management Board and Quality Assurance Board (QAB) in April; these are further explored in the attached paper. The decision taken at that time was not to add the emerging risks relating to Kent Pathology Partnership (KPP) or the Ultra Clean Vertical Laminar Flow units to the corporate risk register at the moment as these were being overseen by the KPP board and the Surgical Division/Strategic Development respectively. These will however be subject to review in order that any significant changes to mitigation can be identified.

<b>New</b>	Two	<ul style="list-style-type: none"> <li>Trust wide compliance with mandatory training compromised by IT issues and interface with ESR</li> <li>Board stability and potential loss of organisational memory with significant changes to the BoD</li> </ul>
<b>Reduced</b>	None	<ul style="list-style-type: none"> <li>Clinical and patient safety risk associated with the implementation of the PACS/RIS</li> </ul>
<b>Increased</b>	None	
<b>Substantially changed</b>	One	<ul style="list-style-type: none"> <li>HCAI – Clostridium difficile infections (CDI). The trajectory for 2015/16 has been identified and one case to date reported. There is a slight reduction this year to 45 cases.</li> </ul>
<b>Removed</b>	One	<ul style="list-style-type: none"> <li>Staffing shortfalls and substantive vacancies within the finance team. The new Director of Finance starts at the beginning of May 2015</li> </ul>
<b>Emerging</b>	Three	<ul style="list-style-type: none"> <li>Staffing difficulties within the Speech and Language Therapy (SaLT) service</li> <li>CQC Fundamental Standards - Legal Duty of Candour and fining for breaches and the potential for NHSLA</li> <li>Potential patient safety issues associated with the treatment of cholesteatoma</li> </ul>
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.		
<b>RECOMMENDATIONS:</b> The IAGC 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.		
<b>NEXT STEPS:</b> An updated position will be presented to the QAB in May 2015.		
<b>IMPACT ON TRUST'S STRATEGIC OBJECTIVES:</b> 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.		
<b>LINKS TO BOARD ASSURANCE FRAMEWORK:</b> 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.		
<b>IDENTIFIED RISKS AND RISK MANAGEMENT ACTIONS:</b> The attached risk register is a distillation of the top 10 risks affecting the Trust and the mitigating actions in place.		
<b>FINANCIAL IMPLICATIONS:</b> 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.		
<b>LEGAL IMPLICATIONS / IMPACT ON THE PUBLIC SECTOR EQUALITY DUTY:</b> 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.		
<b>PROFESSIONAL ADVICE TAKEN ON ANY NOVEL OR CONTENTIOUS ISSUES</b> 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 an update of progress, as at 16 April 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 April 2015. The top 10 risks were received by the Board of Directors at the March 2015 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 14 April 2015 and the full register was reviewed on 19 January 2015. The emerging risks were reviewed by the Management Board on 15 April 2015.

The Corporate Risk Register has been reformatted within Datix in order to meet the recommendation made in the review of governance recently completed; this should fulfil the recommendation to place the risk register in a database. The structure of the output from the database is still being formatted in order to provide the necessary detail for the various committees receiving the register on a monthly basis. Progress has been made to use a database for the divisional risk registers, with that from Urgent Care and Long-Term Conditions already completed.

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	63	Board stability and potential loss of organisational memory with significant changes to the BoD
8	60	Difficulty in recruitment of staff against vacancies and national shortages in some hard to recruit posts
9	54	Delays in cancer treatment and potential issues with MHRA compliance due to temporary closure of the aseptic service
10	30	Internal - Operational Performance Targets

### 1.2. Significant changes to the Register since April 2014 – One

**1.2.1. Risk 15 - Ability to maintain continuous improvement in reduction of HCAIs in the presence of existing low rates.** One case of MRSA bacteraemia was

assigned to the Trust in 2014/15. The target for 2015/16 remains at zero avoidable cases.

The recent performance against the Clostridium difficile trajectory showed a 50 per cent reduction in the number of cases confirmed over the last two quarters of 2014/15. Public Health England confirmed the Trust met the trajectory of 47 cases for 2014/15, after considering the case acquired by a patient treated by the Hospital at Home Service should not be attributed to the Trust. The Clostridium difficile trajectory for the new financial year is 45 cases. The mitigating actions outlined below appear to be reducing the risk.

A sustained improvement 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 45 cases for this financial year is a risk but there is no intention to reduce the risk scores. This will however be reviewed against performance.

### **1.3. Risks decreased in April 2015 – One**

- 1.3.1. Risk 52 - Clinical and patient safety risk associated with the delayed implementation of the PACS/RIS.** The implementation challenges have not resulted in an increase of patient safety incidents reported. The system effectiveness and efficiencies are monitored by the Clinical Support Division and by the Imaging Department. The unmitigated risk reduces from 15 to 10 and the mitigated risk from 10 to 8.

### **1.4. Risks increased in April 2015 – None**

### **1.5. Risks removed from the Register in April 2015 – One**

- 1.5.1. Risk 62 - Staffing shortfalls and substantive vacancies within the finance team.** The new Director of Finance and Performance commences the first week in May 2015. Interim cover arrangements into the other senior finance positions are in place.

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

- 1.6.1. Risk 63 – Board stability and potential loss of organisational memory with significant changes to the BoD.** There were a number of changes to the Board at Executive and Non-executive level that occurred towards the end of the last financial year. A number of new substantive appointments have been made e.g. Director of Human Resources, Chief Operating Officer and Director of Finance and Performance; The Trust has an interim Chief Executive in post. The Chief Nurse and Director of Quality leaves the Trust at the end of this month and the Deputy Chief Nurse and Deputy Director of Quality will assume the interim role.

There are changes to the BoD at the NED level and the Chairman also leaves at the end of this month. There are other positions at the NED level which will come to the end of tenure over the next six months.

Corporate memory will be supported by the tier of staff just below board level; however, there will inevitably be a period of instability as the Board which may affect performance.

The unmitigated risk score is 20 and the mitigated score 10; this places the risk in the top 10 affecting the Trust.

- 1.6.2. **Risk 64 - Trust wide compliance with mandatory training compromised by IT issues and interface with ESR.** Staff compliance with mandatory training is variable across the Trust and that reported via Qlikview directly from individual electronic staff records (ESR) does not correlate with staff feeding back to their managers on compliance. Staff also report difficulties both with accessing the relevant training through the National Learning Management System (NLMS) and consistently saving their completed assessments into their electronic staff record. The ability of staff to access the NLMS using Smartcards has been affected by the Trust wide changes to the web browser and the newer desktop PCs. PCs that do not have this functionality are marked, but all those in the libraries and post graduate centres are compatible.

Learning and Development have ensured that eLearning can now be accessed with a user name and password, therefore obviating the need for Smartcard access. The Information Team are developing an improved system, which should be in place by June 2015. This solution is by an enclosed server-based environment for all mandatory training outside the NLMS. This will contain the same course material but will be hosted internally by the Trust. The interface between this system and ESR will improve without the link to the NLMS.

There are additional challenges for Trust wide infection prevention and control training as the current Trust training programmes are no longer available on the NLMS following a recent upgrade to the national system. The Trust is developing specific training materials with an outside agency, which will be available for staff using the enclosed training environment being developed. The cost of development is around £11K. This delay will affect the ability of staff to complete mandatory training in this area.

The unmitigated score is 15 and the mitigated score 9.

## 1.7. Emerging risks

- 1.7.1. 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 QEOM 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.

- 1.7.2. 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 came into force on 01 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. The current position of the NHSLA regarding this matter has not yet been confirmed and the risk is difficult to evaluate currently.

- 1.7.3. 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. Until this audit is completed it is not possible to ascertain if the number of patients affected is higher than the eight currently identified.

## **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 BoD are requested to:**

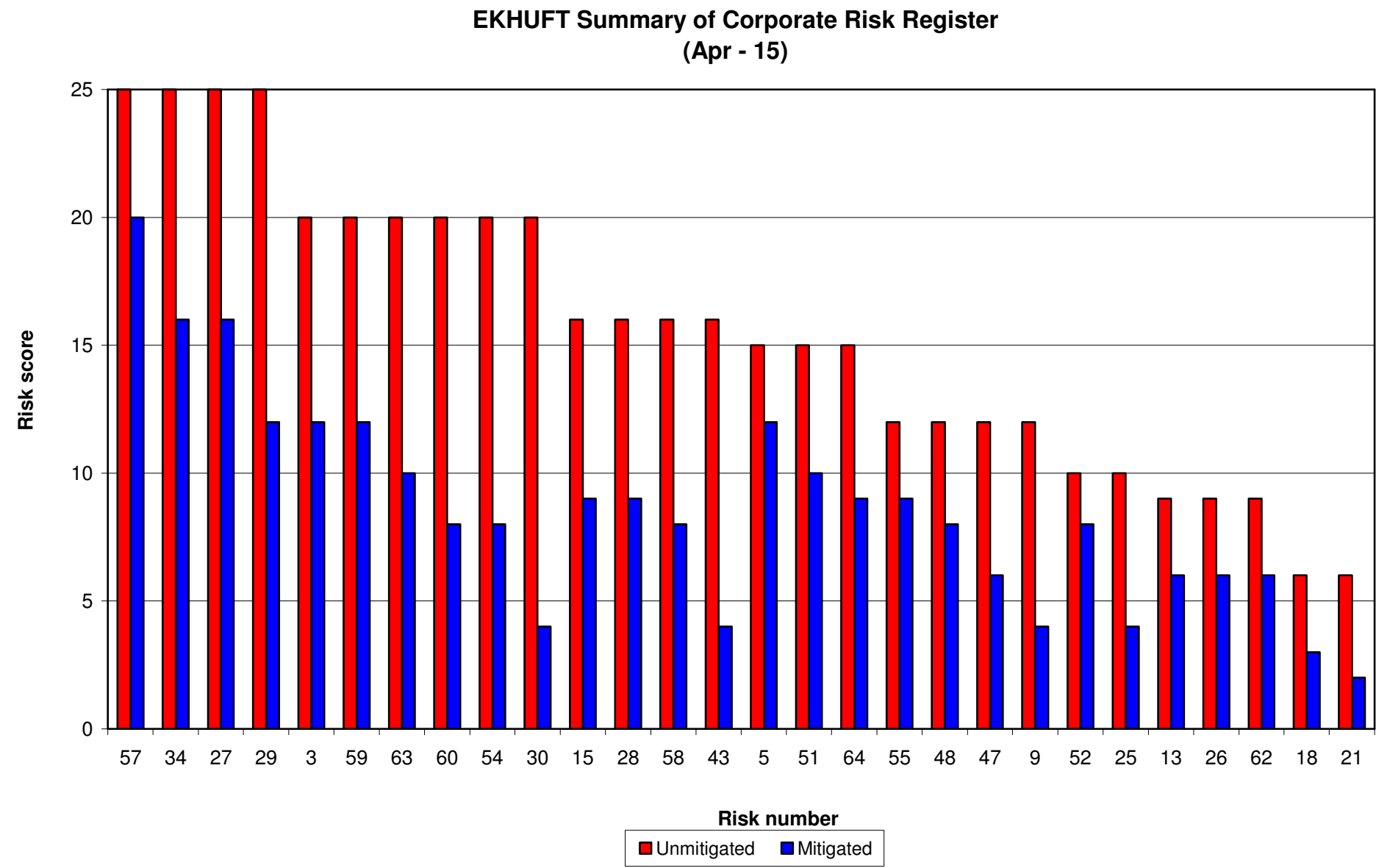
- 3.1. Note the report, discuss and determine actions as appropriate and approve the revised risk register.



**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	Jane Ely
6	59	20	12	Poor staff survey results and evidence of staff engagement	Nov-14	Sandra Le Blanc
7	63	20	10	Board stability and potential loss of organisational memory with significant changes to the BoD	Apr-15	Chris Bown
8	60	20	8	Difficulty in recruitment of staff against vacancies and national shortages in some hard to recruit posts	Dec-14	Sandra Le Blanc
9	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/Jo Ringer
10	30	20	4	Internal - Operational Performance Targets	Feb-15	David Bains
11	15	16	9	Ability to maintain continuous improvement in reduction of HCAs in the presence of existing low rates	Feb-15	Sue Roberts
12	28	16	9	External - Cost and Income Pressures including Technical Changes	Feb-15	David Bains
13	58	16	8	Effective diagnosis and management of sepsis	Jan-15	Michelle Webb
14	43	16	4	Embedding Divisional Quality Governance	Feb-15	Helen Goodwin
15	5	15	12	Failure to meet 18 weeks RTT	Dec-14	Marion Clayton
16	51	15	10	Business continuity and disaster recovery solutions for Trust wide telephony	Oct-14	Andy Barker
17	64	15	9	Trust wide compliance with mandatory training compromised by IT issues and interface with ESR	Apr-15	Sandra Le Blanc
18	55	12	9	Failure to meet and sustain the 62 day cancer targets for urgent GP and screening referrals	Dec-15	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	Mar-15	Jane Ely
21	9	12	4	Loss of clinical reputation due to unmitigated patient safety risks	Oct-14	Michelle Webb
22	52	10	8	Clinical and patient safety risk associated with the delayed implementation of the PACS/RIS	Dec-14	Mary Tunbridge
23	25	10	4	Management of complaints and patient experience	Nov-14	Sally Smith
24	13	9	6	Age and Design of Trust constraint EKHUFT being top 10 in England	Jan-15	Finbarr Murray
25	26	9	6	Profile and effectiveness of the clinical audit function	Oct-14	Robin Ufton
26	62	9	6	Health and Safety compliance	Mar-15	Finbarr Murray
27	18	6	3	Complexities of Managing the Market	Jan-15	Rachel Jones
28	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

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