Derbyshire Healthcare NHS Foundation Trust

Quality Report

Ashbourne House Trust HQ
Kingsway,
Derby
DE22 3LZ
Tel: Tel:01332 623700
Website: www.derbyshirehealthcareft.nhs.uk

Date of inspection visit: 6 – 8 & 12 January 2016
Date of publication: 25/02/2016

Core services inspected	CQC registered location	CQC location ID
Not Applicable	Trust headquarters	RXM

This report describes our judgement of the quality of care at this provider. It is based on a combination of what we found when we inspected, information from our 'Intelligent Monitoring' system, and information given to us from people who use services, the public and other organisations.

Mental Health Act responsibilities and Mental Capacity Act/Deprivation of Liberty Safeguards

We include our assessment of the provider's compliance with the Mental Health Act and Mental Capacity Act in our overall inspection of the core service.

We do not give a rating for Mental Health Act or Mental Capacity Act; however, we do use our findings to determine the overall rating for the service.

Further information about findings in relation to the Mental Health Act and Mental Capacity Act can be found later in this report.

Summary of findings

Contents

Summary of findings

Overall summary

In July 2015, Monitor opened an investigation into the Trust, due to governance concerns identified from the judgement of an Employment Tribunal. Monitor also has concerns following related complaints raised by other parties including individuals who have approached Monitor in line with its whistleblowing policy. The Trust is currently undertaking two pieces of work to respond to the issues raised by the judgement and by the Monitor investigation:

- An independent investigation into the findings of the judgement, both as they relate to the performance and conduct of individuals and to wider issues of standards of corporate governance.
- An independent investigation into individual complaints raised by current or ex-members of staff about the behaviour of current or ex-members of staff.

The Trust appointed an external agency to carry out a focused review of specific elements of its governance arrangements. Monitor, the Care Quality Commission (CQC) and Deloitte looked into the leadership and governance arrangements and into the performance of the HR and related functions at the Trust. Each body will report separately. This report describes the findings of the CQC focused inspection.

This focused inspection looked specifically at the following:-

- Vision, values & strategy
- Are recruitment and performance management processes objective and transparent?
- Are there clear roles and accountabilities in relation to board governance (including quality governance)?
- Does the board actively and effectively engage patients, staff, governors and other key stakeholders on quality, operational and financial performance?

We would like to thank the trust and its staff for their help and co-operation throughout the review.

Summary of findings

The five questions we ask about the services and what we found

We always ask the following five questions of the services.

Are services well-led?

Summary of findings

Our inspection team

Our inspection team was led by: James Mullins, Head of Hospital Inspections

The team included four CQC inspectors, an assistant inspector and two specialist advisors (a chief executive of a mental health trust and a non-executive director of a mental health trust).

CQC worked collaboratively with Deloitte & Monitor during the inspection.

Why we carried out this inspection

This focussed inspection was carried out due to concerns that were raised by whistle blowers, the context of which is described in the main body of the report.

How we carried out this inspection

Before visiting, we reviewed a range of information we hold about Derbyshire Healthcare NHS Foundation Trust. We requested information such as board and quality committee minutes, HR policies, staff survey results and relevant HR data such as exit questionnaires.

We carried out an announced visit to the provider from 6-8 January 2016 and a further follow up unannounced visit on the 12 January 2016. During the course of the visits we interviewed a total of 160 people including;

- Acting CEO
- Director of Nursing
- Director of Transformation
- Interim director of corporate & legal affairs
- Director of operations
- Medical Director
- Deputy Director of Workforce
- Complaints manager & her team
- Consultant safety nurse
- Associate directors of leadership and development, nursing & quality
- Risk manager
- Advocacy representatives
- Staff side union representatives
- Other trust staff

We also held focus groups with the following groups of staff:

- Governors
- Non-executive directors
- Heads of departments and associate directors
- Consultants and associate or junior doctors
- Senior nurses
- Allied health professionals
- Psychologists
- Healthcare support works
- Clinical commissioning groups
- Occupational Health

We invited staff and patients to attend 'drop in sessions' or to call and speak with a member of the inspection team via a telephone interview. These sessions provided an opportunity for staff to speak one-to-one with a member of the inspection team to express their opinions and experiences of the trust.

The inspection team reviewed a selection of files kept by the trust in relation to personnel, grievances, disciplinary procedures and whistleblowing.

We also visited a number of wards where care is provided at locations such as Kingsway hospital, Hartington Unit and the Radbourne Unit where we spoke to both staff and patients about their experiences.

Summary of findings

Information about the provider

Derbyshire Healthcare NHS Foundation Trust is a combined community and mental health, learning disability and substance misuse provider. The trust provides services to:

- Children, young people and families
- people with learning disabilities
- people experiencing mental health problems
- people with substance misuse problems

Trust Board

The trust is led by a unitary board (this means all participants have equal legal responsibility for the management and strategic performance of the trust). It operates within a budget of £132 million and provides 311 inpatient beds and employs 2383 staff.

The trust gained foundation status in February 2011. Since then, the trust leadership has been in transition with 3 chairmen and the same number of chief executives having held office. The current chief executive is undertaking the role on an acting up basis (at the time of our review, the substantive chief executive was suspended pending investigation).

Trust Registration

The trust registered with the CQC in 2010 to provide the following regulated activities:

- the treatment of disease, disorder or injury
- Assessment or medical treatment for persons detained under the Mental Health Act.
- diagnostic and screening procedures

The trust provide services from four registered locations; Kingsway hospital, Radbourne Unit, London Road Hospital in Derby and the Hartington Unit in Chesterfield.

The trust has received three inspections following their registration and was found to be compliant with the standards reviewed.

Ten Mental Health Act monitoring visits were carried out in 2015. The trust provided action plans following each visit in order to address issues that were identified.

The June 2015, the CQC Intelligent monitoring report found no significant risks identified for the trust.

As part of our routine comprehensive inspection programme of the NHS, the trust will have an announced inspection of the core services provided carried out on the week commencing 6th June 2016.

Areas for improvement

Action the provider MUST take to improve

- The trust must ensure HR policies and procedures are followed and monitored for all staff
- The trust must ensure that a fit and proper person review is undertaken for all directors in light of the findings of the employment tribunal

Action the provider SHOULD take to improve

- The trust should ensure that all board members and the council of governors undertake a robust development plan
- The chairman should ensure that a unitary board culture is achieved by focusing on positive working relationships between board members and the council of governors
- The trust should ensure that the outcome of this focussed inspection impacts directly upon the organisational strategy
- The trust should monitor the adherence to the grievance, disciplinary, whistle-blowing policies and the current backlog of cases concluded.
- The trust should ensure that training passports for directors reflect development required for their corporate roles.
- The trust should introduce and effectively monitor 360 degree feedback all senior managers and directors.
- The trust should ensure that recruitment processes for all staff are transparent, open & adhere to relevant trust policies

Summary of findings

- The trust should continue to proactively recruit staff to fill operational vacancies.
- The trust should continue to make improvements in staff engagement and communication,

Derbyshire Healthcare NHS Foundation Trust

Detailed findings

Are services well-led?

By well-led, we mean that the leadership, management and governance of the organisation assure the delivery of high-quality person-centred care, supports learning and innovation, and promotes an open and fair culture.

Summary of findings

During the focussed inspection, we found that:

- Following the outcome of the employment tribunal, the trust had not carried out a fit and proper person investigation with regards to directors who had been criticised in the judgements
- We saw evidence that HR policies and procedures were not being consistently followed for senior staff undergoing disciplinary or grievance procedures
- Processes for recruiting to internal or seconded posts were not being appropriately followed
- We saw evidence of a 'disjoint' between the council of governors and the trust board
- We were told by several members of staff that they were not comfortable using trust grievance processes for 'fear of repercussion'

However:

- We saw evidence of attempts by the trust to engage effectively with staff, patients and external stakeholders
- We saw evidence of quality visits to trust services by governors and board members

Our findings

Vision, values and strategy

- The vision of Derbyshire Healthcare NHS Foundation Trust has been to improve the health of the communities that they serve. Similarly, the trust values were to deliver excellence, involve people in making decisions, focus on people and put patients at the centre of everything that they do. The values were launched in May 2012, following consultation with staff, patients and partner organisations.
- The trust quality framework 2015-2018 describes the following priorities:

Outcome 1: People receive the best quality care

Outcome 2: People receive care that is joined up and easy to access

Outcome 3: The public have confidence in our healthcare and developments

Outcome 4: Care is delivered by empowered and compassionate teams

- Strategic objectives are monitored and reported in the public session of the Trust Board every quarter. An organisational change policy dated June 2015 was in place to support any changes.
- From April 1st 2015, a major transformational project to implement neighbourhood working was a key feature of the trust strategy. The Trust's community care and support services are currently divided into eight neighbourhood areas within Derbyshire. Each neighbourhood works closely and with other local health professionals, drawing on local community resources.
- Staff that we spoke to expressed concerns about the management of change in the introduction of the new model of working. Staff felt that there was lack of consultation on the introduction of generic roles and job descriptions and expressed concerns that the workforce plan was not robust. For example, staff told us that training and skill development had not taken place prior to introducing the neighbourhood model.
- Staff engagement events and road shows took place to present staff with the opportunity to influence the principles of future service delivery. Staff had fed back their concerns and the leadership team had listened and made some changes in response to the feedback. However, staff expressed frustration that decision making was not effectively cascaded and that many of the meetings repeated the same issues.
- Staff that we spoke with expressed disappointment, embarrassment and felt let down by the values and behaviours of trust board members criticised in the employment tribunal case. Staff considered that the findings of the tribunal had damaged the reputation of the trust. Consequently, many staff who we spoke to were not wholly confident in the trust board.

Are services well-led?

Recruitment & performance

- The fit and proper person (FPP) regulation was introduced in November 2014 to ensure the accountability of directors. It placed a duty upon the chair to ensure that all directors met the requirements to hold office and that they held the appropriate skills, competencies and experience commensurate to their role.
- The trust board discussed the fit and proper person test and duty of candour in September 2014. The trust carried out an audit against the FPP regulation in October 2014. This showed that majority of the checks were complete. However, there were some checks that had not been completed such as one disclosure and barring check for a director, two directors did not have references, health checks or copies of professional qualifications.
- A one page fit and proper person action plan was in place and due for completion in January 2015. A director informed us that the action plan had not been completed. Files reviewed demonstrated that the action plan had not been implemented. We found that the personnel files were not ordered in a manner that would assist a chair to establish the fitness of directors because information was not filed effectively.
- We reviewed the directors' register of interests for April 2014; these did not appear to have been renewed for 2015. A separate register of interests and hospitality was kept for the whole trust. Staff made declarations when there a conflict of interest or hospitality was received.
- We reviewed the personnel files of seven directors. The files had a good HR checklist to denote elements of the recruitment process had been completed. Recent appointments showed that the roles had been advertised and recruited to appropriately, competency based interviews were carried out and two references obtained. Enhanced disclosure and barring checks had been completed on employment although there was no evidence that these had been repeated at periodic intervals for directors in post for more than three years. For those with a professional qualification, initial checks had been carried out on appointment with professional bodies and we were informed that these were monitored on a separate data base. Qualifications and a full employment history were also checked. Files did not contain up to date information when appraisals and managerial supervision were carried out and if fit and proper person test was discussed although these were stored separately and had been completed. Not all files had remuneration/nominations committee approvals in them therefore did not show what consideration had been taken to appoint to acting roles.
- During the period 2013 to 2015, there had been ten staff above grade 8c who had left the trust. However, only three exit interviews had been conducted. Four directors and two non-executive directors left without an exit interview being carried out. This means valuable reflections that could assist the organisation in improving practice, procedures and culture was uncaptured.
- The employment tribunal judgment was critical of the actions of a number of directors and senior managers. Therefore, the chief executive officer was suspended pending investigation. However, the outcome of the employment tribunal did not immediately trigger a fit and proper person review by the chair in relation to other staff named. There was no documentation of the rationale as to why these staff continued their roles or acting up into senior roles. The trust did appoint an external panel to carry out an investigation further to the outcome of the ET; this process had not been completed at the time of our visit.
- The trust had a training passport in place for all staff and directors. We reviewed the directors training passport. This showed three executive directors who fully met the requirements of mandatory training. The remainder of the executive directors partially met them.
- Directors all received monthly managerial supervision for a minimum of one and half hours.
- 360-degree feedback was available for directors. However, we could only find evidence within one director's personnel file to show that it had occurred. The trust did not have figures available to identify how many managers took part in 360-degree feedback.
- There were 13 acting managers posts; only one of which had been internally advertised. Staff told us that processes were not transparent when appointing to secondment posts.
- Staff we spoke with stated that they did receive supervision. However, overall clinical and management supervision levels were low. Trust figures showed that 21% of staff were fully compliant with clinical

supervision and 26% with managerial supervision. Supervision was one of the mechanisms used to look at lessons learned and application of policies and procedures.

- The 2015 staff survey reported that appraisals occurred, however, there was variation in the effectiveness of them being carried out. Some staff we spoke with said they had not received an appraisal. In November 2015 the number of staff, completing appraisals was 1571 (65%), this meant that individual objectives and performance were not set and monitored for all staff.
- Recruitment of staff was a key challenge for the trust and staffing was on the trust register with mitigation plans in place.
- The budgeted vacancy rate across the trust was for 2015 was 14%.
- There was a reliance on bank and agency nurses as not all shifts could be filled. The number of shifts covered by bank and agency staff in April 2015 to November 2015 was 64,194. The trust monitored the fill rates for each ward. There were seven wards in which fill rates were between 71-85% between April 2015 and November 2015. This meant that not all shifts had their full complement of staff. This resulted in movement of staff to cover shifts. Electronic reporting of staffing issued occurred and an escalation process to managers was in place.
- The trust had proactively provided a safe staffing paper to clinical commissioning groups requesting an increase of 61 wte nurses. Staffing predictions were made following the identification of caseloads sizes, numbers of incidents & complaints and waiting lists for care co-ordinators within community teams.
- The trust annual sickness rate for 2015 was 5.3% this is above the national NHS average of 4.4%. The annual staff turnover for 2015 was 9.8%.
- The trust had commenced work to support nurses to revalidate with their professional body. The trust electronic database monitors that professional registration of clinical staff is up to date. The trust was in the process of updating their appraisal policies to include professional revalidation.

Processes, structure & accountabilities in relation to board governance

- Trust board development documentation for 2014 -2015 showed that out of 12 planned activities, five of these were cancelled and four of the planned actives were not recorded as having taken place or otherwise. Three activities that did take place showed that the board looked at preparing for a CQC inspection, the board assurance framework, relationship and flows between communities and the review of the escalation framework. There was loss of impetus in board development due to responding to the employment tribunal. .
- The role of non–executive directors (NED) is to hold the board to account for the delivery of strategy and the mitigation of risks. Board papers identified that NEDs did provide challenge. However, in relation to the events leading to the employment tribunal and following the judgement, effective challenges did not occur that would lead to senior staff who were criticised by the ET being held to account.
- The NEDS were keen for the organisation to move on, however did not appear to challenge what actions needed to be taken by the leadership to maintain the confidence and support of the rest of the organisation.
- Governors received an induction to their role upon appointment. However, there was a lack of development provided by the trust in order to enhance the skill set of the governing body. The relationship between governors and the board was reported to the inspection team by members of the executive team as being 'disjointed'.
- Non-Executive Directors are accountable to the Council of Governors for the performance of the Board of Directors. However, there is no clear evidence from the minutes of board meetings that this was happening effectively; partly due to the reported lack of mutual respect between both parties and poor communication. There also appeared to be a lack of role clarity amongst governors. This meant that serious confidential issues, such as the employment tribunal, were not shared with the entire governing body in a timely manner.
- The chair appointed in 2014 identified the disjoint between the governors and non-executive directors and made some changes to try to improve the relationships between the board and the council of governors.
- The trust had good working arrangements with the clinical commissioning groups (CCGs). The trust executives had held periodic board to board sessions with the CCG's in order to discuss quality and

performance. The CCG's informed the inspection team that the trust has performed well in terms of quality and was financially sound despite the current economic challenges facing the health economy.
- There was active involvement by the trust in the vanguard initiative in Erewash. The acting chief executive was chair of the community reliance group as part of the vanguard model.
- We observed evidence of effective systems leadership; this included sharing practice such as value based recruitment, mindfulness and compassion sessions for staff in North Derbyshire. The CCGs observed that this approach had influenced other organisations.

Engaging with patients, staff, governors and other key stakeholders

- Patient engagement to plan and deliver services occurred through a mental health action group in south Derbyshire. It had a membership of 200 people consisting of patients, service users, and representation from voluntary and local authority organisations. The group participated in projects such as the transformational change. Currently, the group were working on a mutual agreement project which would set out the expectations of patients.
- Staff engagement activities included meetings about the staff survey, a weekly electronic newsletter, chief executive listening events and electronic blog, appointment of communication champions. Various directors also provided Podcasts on specific topics such as safeguarding.
- Staff said the acting chief executive had been visible on wards. Members of the board had also undertaken quality visits to clinical areas.
- The board focused on the needs of the patients using services by inviting patients to tell their stories to board meetings in order to understand how improvements could be made. Clinical teams had also attended the board to tell their experiences of the impact of the transformational change on their service and on them.
- The trust was rated as 7/10 in the 2015 patient survey. This is comparable with the national average for mental health trusts.
- The 2015 NHS staff survey had a response rate of 43% for the trust. Results showed no significant changes in comparison with the 2014 staff survey. The positive findings related to staff agreeing that their role made a difference to patients, receiving job relevant training and development, appraisals, effectiveness of incident reporting procedures, job satisfaction and motivation. The main negative findings related to work pressures felt by staff, lack of structured appraisals, support when raising concerns regarding unsafe practice & harassment or abuse from patient's relatives or other staff. A people's strategy was put in place by the trust in response to the staff survey. The priorities of the strategy were to address the main staff concerns.
- The Joint staff side consultative committee minutes reviewed between March 2014 – June 2015 raised concerns that disciplinary/grievance investigations were not being completed within targeted times. Improvements were agreed in that any employee subject to an investigation would receive timely updates on the process. The Commissioning Officer of the investigation would also ensure the lead Investigating officer adhered to the timescales identified in the trusts policies.
- The trust had current grievance and dignity at work policies and procedures in place. The disciplinary policy was dated 2012 -2014 . Staff were aware of the policies, however not all staff that we spoke with felt were confident to engage in the grievance or dignity at work processes fear of repercussions. This commonly held view was confirmed in our interviews with staff side representatives.
- Between 2012 and 2015, there were 11 grievances reported by clinical staff. We were made aware by both whistle blowers and HR staff at the trust that there were six grievances, counter complaints and disciplinary investigations conducted because of events associated with the employment tribunal case that involved senior staff within the trust. However, we saw no evidence that HR policies or procedural guidance was being followed in cases involving senior staff. This was corroborated by HR staff.
- Other staff within the trust also advised the inspection team that policies or procedures in relation to disciplinary or grievances were not being adhered to. Common themes emerged with regards to investigation processes taking too long, staff not being informed of allegations made against them and a lack of clarity regarding the role of the staff liaison officer.
- We reviewed six disciplinary files; we found that files did not have a clear audit trail and some had no chronological history. Reasons for delays in investigations were not consistently recorded. The

investigations did take a long time for example some disciplinary cases had been ongoing for two or three years. There was separation and independence in terms of who investigated, who sat on the panel hearings and who heard appeals. Letters sent to employees did provide information about access to the staff liaison officer and that a representative could attend meetings. Files did not have information about when and who reviewed suspensions. There were clear terms of reference for the investigators. Human Resource (HR) representative did support the investigators. It was not clear who kept an overview of all the disciplinary cases and if processes were being followed and to challenge.

- We reviewed three grievance files and again, found that there were no clear audit trails. The trust reported that between 2012-2015 it had received seven reported cases of whistleblowing. Of these, only two were classified as whistleblowing events and the remainder were dealt with as HR or operational issues.
- We saw evidence that since 2013, 136 job evaluations had gone to a panel for appraisal without the involvement of staff side representation. The trust had rectified this and agreed that these job evaluations could be resubmitted to a panel which included staff side representation. At the time of our inspection, there were a further 44 job descriptions also waiting to go to panel. The trust was in the process of training staff to become panel members and was setting up extra panels in order to deal with the backlog.
- Eighty six percent of staff had received Equality and diversity training. The trust had a cultural diversity engagement post. The trust provides services to a high black and ethnic minority (BME) population in Derby city. The trust considered its workforce to be reflective of the local population.
- Staff and managers were aware of the duty of candour. This occurs when a healthcare professional must be open and honest with patients when something that goes wrong with their treatment or has the potential to cause, harm, or distress. Staff stated that they would exercise this when clinical incidents arose.
- Complaints were reported through the electronic incident reporting system. Learning from complaints occurred and was reported through a newsletter called 'practice matters'. A family liaison team were involved in the implementation of the duty of candour. Complaints leads meetings occurred quarterly in order to continue to improve complaints management.
- The trust used a number of methods to cascade learning from incidents, complaints and service user feedback. The trust intranet had a news section called 'Connect' that provided information. A monthly practice newsletter reflected lessons learned and cascaded information about national patient safety issues and new or revised guidance affecting clinical practice.
- The trust provided a range of support for employees such as a staff liaison manager and employee assistance counselling service to support adverse life events. Wellbeing plans to support staff to stay well at work were available although the trust did not provide information on how many wellbeing plans were currently in place. The trust was also an affiliated Mindful Employer. This includes a charter for employers who are positive about staff mental health and wellbeing.
- Staff had access to leadership development. Between April 2014 and January 2016, 854 staff across the trust had attended leadership courses. The majority of staff were positive about the leadership courses.

Quality improvement, innovation and sustainability

- Quality visits involves NEDS, directors, governors & commissioners visiting clinical teams has been operational since 2010. We saw evidence of an annual cycle of visits to each clinical team was in place. It provided an opportunity for teams to display good practice and engage with board members.

This section is primarily information for the provider

Requirement notices

Action we have told the provider to take

The table below shows the legal requirements that were not being met. The provider must send CQC a report that says what action they are going to take to meet these requirements.

Regulated activity	Regulation
Assessment or medical treatment for persons detained under the Mental Health Act 1983 Diagnostic and screening procedures Treatment of disease, disorder or injury	Regulation 17 HSCA (RA) Regulations 2014 Good governance Regulation 17 HSCA (RA) Regulations 2014. Good governance. The trust must ensure that HR policies and procedures are followed for all staff This was a breach of Regulation 17 (2)(d)(I)

Regulated activity	Regulation
Assessment or medical treatment for persons detained under the Mental Health Act 1983 Diagnostic and screening procedures Treatment of disease, disorder or injury	Regulation 5 HSCA (RA) Regulations 2014 Fit and proper persons: directors Regulation 5 HSCA (RA) Regulations 2014. Fit and proper persons: Directors The trust must ensure that a fit and proper person review is undertaken for all directors in light of the findings of the employment tribunal This was a breach of Regulation 5 (2)(a)(b)(3)(a)(b)(d)

This section is primarily information for the provider

Enforcement actions

Action we have told the provider to take

The table below shows the legal requirements that were not being met. The provider must send CQC a report that says what action they are going to take to meet these requirements.