

Item 4.5b

Annual Report 2022/23 - Compliance with the Code of Governance

Liverpool Heart and Chest Hospital NHS Foundation Trust has applied the principles of the NHS Foundation Trust Code of Governance ('The Code') on a 'comply or explain basis'. The NHS Foundation Trust Code of Governance, most recently revised in July 2014 is based upon the principles of the UK Corporate Governance Code issued in 2012. A revised Code of Governance has been published and will be in place for 2023/24.

During 2022/23, the Board of Directors has maintained governance policies and processes that reflect the principles of the Code, including:

- A clear vision, underpinned by strategic objectives and operational plan
- A Corporate Governance Manual which includes the constitution and procedures by which the Board of Directors and Council of Governors operate; the Scheme of Reservation and Delegation, the Board Committee structure and associated Terms of Reference, Standing Financial Instructions and key corporate policies.
- At least half the Board of Directors, excluding the Chair, comprises independent non-executive directors;
- The appointment of a Senior Independent Director;
- Regular private meetings between the Chair and non-executive directors;
- Robust annual appraisal process for the Chair and non-executive directors that has been developed and approved by the Council of Governors;
- Robust recruitment process for the appointment of non-executive and executive directors;
- Induction process for non-executive and executive Directors;
- Comprehensive induction programme and ongoing training programme for Governors;
- Annual review of non-executive director independence;
- Annual review of compliance with Fit and Proper Persons' criteria for all Directors;
- Publicly accessible Register of Interests for Directors, Governors and senior staff;
- Senior Governor appointed;
- Provision of Board minutes and summaries of the Board's private business to governors;
- Effective infrastructure to support the Council of Governors including sub committees, interest groups and informal meetings with the Chair;
- Process for annual evaluation of the Council of Governors and for setting key objectives / priority areas for the following year;
- Membership Strategy with KPIs and engagement plan reported to the Council of Governors;
- Two Nominations and Remuneration Committees for executive and non-executive appointments / remuneration respectively. In the case of non-executive appointments / remuneration recommendations are made to the Council of Governors for approval;
- High quality reports to the Board of Directors and Council of Governors;
- Board evaluation and development plan;
- Codes of Conduct for Governors and for Directors;
- Going concern report;

- Robust Audit Committee arrangements;
- Governor-led appointment process for external auditor;
- Freedom to Speak Up (Raising Concerns) Policy; and
- Internal audit and anti-fraud arrangements, policies and plans.

The Board of Directors conducts an annual review of the Code of Governance to monitor compliance and identify areas for further development.

The Board has confirmed that, with the exception of the following two provisions, the Trust has complied with the provisions of the Code in 2022/23.

Liverpool Heart and Chest Hospital departed from:

- i) Provision B6.2 which states:

‘BoD evaluation should be externally facilitated at least every 3 years. The evaluation needs to be carried out against the board leadership and governance framework set out by Monitor (now NHSEI). The external facilitator should be identified in the annual report and a statement made as to whether they have any other connection to the trust’

The Board last commissioned an independent evaluation against the Monitor Well Led Framework in March 2017, and therefore compliance with this provision, required a further review in March 2020. After giving careful consideration to this requirement, the Board determined that commissioning a further comprehensive external review did not offer best value. The Board has considered this annually and it was further deferred due to escalation of the covid-19 pandemic.

Since publication of the Code of Governance, the regulatory approach has changed and in two successive CQC inspections (2016 and 2019), the Trust was rated ‘outstanding’, ‘overall’ and specifically for ‘well led’. The Board continues to ensure a focus on well led through acceptability of external assurances received; review of the Board development plan driven by the Trust’s objectives, vision and values; and Board Director appraisals. The Board has continued to reprioritise the Board development plan during 2022/23 including the positioning of the Trust and collaboration in relation to Integrated Care Systems and system working. In the context of the leadership and governance framework, the Board has carefully considered the composition of the Directors and skill-set needed for the future as it implements its NED succession plan with the Council of Governors and through the recruitment of Executive Directors.

In summary, whilst the Board has not comprehensively re-evaluated against Monitor’s leadership and governance framework, it has made use of external assurances and commissioned independent advice where it has deemed this to offer most value in delivering improvement for the benefit of patients and staff in line with the Trust’s Vision, values, strategy and to support it in leading its emergency response to the pandemic.

This has been further considered by the Board in 2022/23 and a plan is in place to undertake a formal self-assessment and consider the commissioning of an external review in Q4 2023/24.

- ii) Provision B.7.1 which states:

‘Any term beyond six years (e.g. two three year terms) for a non-executive director should be subject to particularly rigorous review, and should take into account the need for progressive refreshing of the Board. Non-executive directors may, in

exceptional circumstances, serve longer than six years (e.g. two three year terms following authorisation of the NHS Foundation trust) but this should be subject to annual re-appointment. Serving more than six years could be relevant to the determination of a non-executive's independence.'

Julian Farmer (NED) has been re-appointed by the Council of Governors until 31st May 2024, at which point he will have served on the Board of the Foundation Trust for 3 terms (9 years). A review of independence and performance including the importance of continuity in light of other NED changes was undertaken by the Council of Governors to support his extended period of office. The appointment of the SID role was re-assigned to Bob Burgoyne (NED) as part of this process. The Board has reviewed and confirmed continued independence. The succession plan and recruitment timetable will be further reviewed in 2023/24.