

Board of Directors (in Public) Item 5.4

Subject: NHS Constitution: Compliance Report
Date of Meeting: 26th April 2023
Presented by: Sue Pemberton, Director of Nursing; Quality and Safety / Karen Nightingall, Chief People Officer
Purpose of Report: To Note

BAF Reference	Impact on BAF
BAF 1	Assurance regarding compliance with NHS Constitution with some areas for improvement due to the implications of the pandemic

Level of assurance (please tick one) <i>To be used when the content of the report provides evidence of assurance</i>					
<input checked="" type="checkbox"/>	Acceptable assurance Controls are suitably designed, with evidence of them being consistently applied and effective in practice	<input type="checkbox"/>	Partial assurance Controls are still maturing – evidence shows that further action is required to improve their effectiveness	<input type="checkbox"/>	Low assurance Evidence indicates poor effectiveness of controls

1. Executive Summary

The Board of Directors is required to ensure that the Trust is compliant with the legal requirement to “take account of the NHS Constitution in provision of health care services for the purpose of the NHS”. All NHS organisations are legally required to take account of the NHS Constitution in performing their NHS functions. This is also a legal requirement of our Provider Licence under Condition G6 Systems for Compliance with Licence Conditions and Related Obligations Section 1 (c) ‘requirement to have regard to the NHS Constitution in providing health care services for the purpose of the NHS’. The NHS Constitution establishes the principles and values of the NHS in England. It sets out the rights that patients, public and staff are entitled to and the pledges which the NHS is committed to achieve together with responsibilities that the public patients and staff owe to one another to ensure that the NHS operates fairly and effectively.

Compliance with the patient and staff pledges of the NHS Constitution has been assessed for LHCH for the year 2021/22. The Quality Committee has reviewed the detailed assessment of compliance with the patient pledges and the People Committee has reviewed the same for the staff pledges. A summary of the assessment is provided in Appendix 1.

The Covid-19 pandemic changed the way NHS services could function, with restrictions placed on how patients could access services. NHS performance has been significantly impacted as a consequence of the pandemic. During 2022/23 there was a continued focus on the recovery of services whilst still managing the ongoing challenges of the pandemic. Waiting times are continually monitored through established performance forums, within the Trust alongside time focused recovery trajectories. Whilst the Trust has performed well overall in terms of its recovery principals, the main drive in the prevention of patient harm is the safe management of waiting lists, ensuring clinical prioritisation of patients is routine practice clearing the backlog of patients as a result of the pandemic and reducing the waiting times.

This report confirms compliance with all the patients' and staff rights, pledges and expectations set out within the NHS Constitution. The report confirms compliance in all areas within the NHS Constitution with the exception of the rights for access to services (due to the covid pandemic).

The Board of Directors is asked to note the contents of the report.

2. Findings

Overall, the Trust has assessed itself as compliant in all areas for the NHS Constitution with the exception of the element in relation to access to services. This has been driven by the continued national response to the covid 19 pandemic. The Government published emergency laws in March 2020 to support their decision making to respond to the pandemic to maximise the safety of patients during this time. The impact of the covid pandemic has resulted in many patients being delayed in accessing the treatment they have required during this time and patients are now waiting longer to be treated. During 2022-23 LHCH has had a continued focus on safely managing waiting lists, ensuring clinical prioritisation of patients and demonstrated good progress in recovering the backlog of patients and reducing waiting times.

3. Recommendation

The Board of Directors is asked to note the assessment of compliance in all areas within the NHS Constitution with the exception of the rights for access to services as a result of the covid 19 pandemic.

Appendix 1: Assessment of compliance with the NHS constitution

Patient's Rights

1. Access to Health Services			
Pledges: <ul style="list-style-type: none"> To provide convenient, easy access to services within the waiting times set out in the Handbook to the NHS Constitution To make decisions in a clear and transparent way, so that patients and the public can understand how services are planned and delivered To make the transition as smooth as possible when you are referred between services, and to put you, your family and carers at the centre of decisions that affect you or them. 			
Exceptions:			
Rights	Evidence	RAG	Compliant/ Non-Compliant
You have the right to access NHS services. You will not be refused access on unreasonable grounds.	<ul style="list-style-type: none"> The COVID pandemic has delayed access to NHS services due to changes national infection prevention guidance Staff roles have also been diverted to support COVID treatments and critical care support. Waiting lists have remained open during the pandemic, however wait times have significantly increased. Access for emergency services have continued throughout 		Partial compliance due to the covid 19 pandemic.
You have the right to access certain services commissioned by NHS Bodies within maximum waiting times or for the NHS to take all reasonable steps to offer you a range of alternative suitable providers if this is not possible.	<ul style="list-style-type: none"> Waiting times have continued to be monitored by the Trust along with the recovery trajectories. Whilst the Trust has performed well overall in terms of recovery, the focus continues to be on safely managing the waiting lists, clinical prioritisation of patients, clearing the backlog of patients as a result of the pandemic and reducing the waiting times. We treat patients in order of clinical need and any patients who express any concerns with their waiting times are reviewed by the clinical team and if appropriate discussions held with patient regarding options and choices. 		Partial compliance due to the covid 19 pandemic.

2. Quality of Care and Environment
Pledges: <ul style="list-style-type: none"> To identify and share best practice in quality of care and treatments

3. Nationally approved treatments, drugs and programmes
Pledges: <ul style="list-style-type: none"> The NHS commits to provide screening programmes as recommended by the UK National Screening Committee

4. Respect, Consent and Confidentiality

Pledges:

- To ensure those involved in your care and treatment have access to your health information so they can care for you safely and effectively
- If you are admitted to hospital you will not have to share sleeping accommodation with patients of the opposite sex except where appropriate in line with details set out in the handbook to the NHS Constitution
- To anonymise the information collected during the course of your treatment and use it to support research and improve care for others
- Where identifiable information has to be used, to give you the chance to object wherever possible
- To inform you of research studies in which you may be eligible to participate
- To share with you any correspondence sent between clinicians about your care

5. Informed Choice

Pledges :

- To inform you of healthcare services available to you, locally and nationally
- To offer you easily accessible, reliable and relevant information in a form that you can understand, and support to use it. This will enable you to participate fully in your own healthcare decisions and to support you in making choices. This will include information on the quality of clinical services where there is robust and accurate information available

6. Involvement in your healthcare and in the NHS

Pledges:

- To provide you with the information and support you need to influence and scrutinise the planning and delivery of NHS services
- To work in partnership with you, your family, carers and representatives.
- To involve you in discussions about planning your care and to offer you a written record of what is agreed if you want one
- To encourage and welcome feedback on your health and care experiences and use this to improve services

7. Complaint and redress

Pledges:

- To ensure you are treated with courtesy and you receive appropriate support throughout the handling of a complaint; and the fact that you have complained will not adversely affect your future treatment
- Ensure that when mistakes happen or if you are harmed when receiving health care you receive an appropriate explanation and apology, delivered with a sensitivity and recognition of the trauma you have experienced and know that lessons will be learned to help avoid a similar incident occurring again.
- To ensure that the organisation learns lessons from complaints and claims and uses these to improve NHS services

Staff Rights

Number one:

Have a good working environment with flexible working opportunities, consistent with the needs of patients and with the way that people live their lives

Number two:

Have a fair pay and contract framework

Number three:

Have healthy and safe working conditions and an environment free from harassment, bullying or violence

Number four:

Be treated fairly, equally and free from discrimination

Number five:

Can in certain circumstances take a complaint about their employer to an employment tribunal

Number six:

Can raise any concern with their employer, whether it is about safety, malpractice or other risk, in the public interest

Number seven:

Have employment protection (NHS employees only)

Staff Pledges**Pledge one:**

The NHS commits to provide a positive working environment for staff and to promote supportive, open cultures that help staff do their job to the best of their ability

Pledge two:

The NHS commits to provide all staff with clear roles and responsibilities and rewarding jobs for teams and individuals that make a difference to patients, their families and carers and communities

Pledge three:

The NHS commits to provide all staff with personal development, access to appropriate education and training for their jobs and line management support to enable them to fulfil their potential

Pledge four:

The NHS commits to provide support and opportunities for staff to maintain their health, wellbeing and safety

Pledge five:

The NHS commits to engage staff in decisions that affect them and the services they provide, individually through representative organisations and through local partnership working arrangements. All staff will be empowered to put forward ways to deliver better and safer services for patients and their families

Pledge six:

The NHS commits to have a process for staff to raise an internal grievance

Pledge seven:

The NHS commits to encourage and support all staff in raising concerns at the earliest opportunity about safety, malpractice or wrongdoing at work, responding to and, where necessary, investigating the concerns raised and acting consistently with the public interest Disclosure Act 1998

Staff Legal Duties**Duty one:**

To accept professional accountability and maintain the standards of professional practice as set by the appropriate regulatory body applicable to your professional role

Duty two:

To take reasonable care of health and safety at work for you, your team and others and to co-operate with employers to ensure compliance with health and safety requirements

Duty three:

To act in accordance with the express and implied terms of your contract of employment

Duty four:

Not to discriminate against patients or staff and to adhere to equal opportunities and Equality and Human Rights legislation

Duty five:

To protect the confidentiality of personal information that you hold

Duty six:

To be honest and truthful in applying for a job and in carrying out that job

Expectations for Staff**Expectation one:**

You should aim to maintain the highest standards of care and service, treating every individual with compassion, dignity and respect, taking responsibility not only for the care you personally provide but also for your wider contribution to the aims of your team and the NHS as a whole

Expectation two:

You should take up training and development opportunities provided over and above those legally required of your post

Expectation three:

You should aim to play your part in sustainably improving services by working in partnership with patients, the public and communities framework

Expectation four:

You should aim to raise any genuine concern you have about a risk, malpractice or wrongdoing at work (such as a risk to patient safety, fraud or breaches of confidentiality) which may affect patients, the public, other staff or the organisation at the earliest possible opportunity

Expectation five:

You should aim to involve patients, their families, carers or representatives fully in decisions about prevention, diagnosis and their individual care and treatment

Expectation six:

You should aim to be open with patients, their families, carers or representatives including if anything goes wrong, welcoming and listening to feedback and addressing concerns promptly and in a spirit of co-operation

Expectation seven:

You should aim to contribute to a climate where the truth can be heard, the reporting of and learning from errors is encouraged, and colleagues are supported where errors are made

Expectation eight:

You should aim to view the services you provide from the standpoint of a patient and involve patients, their families and carers in the service you provide, working with them, their communities and other organisations, making it clear who is responsible for their care

Expectation nine:

You should aim to take every opportunity to encourage and support patients and colleagues to improve their health and wellbeing

Expectation ten:

You should aim to contribute towards providing fair and equitable services for all and play your part, wherever possible, in helping to reduce inequalities in experience, access or outcomes between differing groups or sections of society requiring healthcare

Expectation eleven:

You should aim to inform patients about the use of their confidential information and record their objections, consent or dissent

Expectation twelve:

You should aim to provide access to patient information to other relevant professionals, always doing so securely, and only where there is a legal and appropriate basis to do so