

Council of Governors (in Public)

Item 11.2

Subject: Corporate Governance Statement 2022/23
Date of Meeting: Tuesday 7th March 2023
Presented by: Karan Wheatcroft, Director of Risk and Improvement
Purpose: To Consider

1. Executive Summary

Boards are required to ensure that they have in place effective systems to ensure compliance with the provider licence and to make an annual declaration in respect of the following licence provisions:

- i) Corporate Governance Statement
- ii) General Condition 6 – Systems for compliance with licence conditions
- iii) Continuity of Services Condition 7 – Availability of Resources
- iv) Certification on AHSCs (Academic Health Sciences Centre) and Governance, and
- v) Training of Governors

Whilst NHS England (NHSE) no longer requires the Board of Directors to submit an annual declaration, the Trust may be selected for audit as part of a sampling exercise conducted by NHSE to check on its review process and compliance with good governance practice.

The Statements that the Board is recommended to certify are attached. In respect of each statement, the Board should respond '*confirmed*' or '*not confirmed*'. Any responses of '*not confirmed*' should include explanatory information which could be an indicator of possible breach of licence, warranting possible further investigation by NHSE.

It should be noted that the global pandemic has had a significant impact on the ability of Trusts to fully comply with the licence.

The Statements require the Board to have had regard to the views of governors in making the declarations. The Council of Governors (CoG) is asked to consider the statements and provide any views on these for consideration by the Board.

The remainder of this report provides an overview of the assurances that the Board will review to inform the declaration process.

2. Background

The Single Oversight Framework no longer makes reference to the Corporate Governance Statement required by the Provider Licence. Whilst NHSE no longer requires receipt of Board declarations in respect of the above licence conditions, it expects Boards to maintain effective governance and to be able to demonstrate that they have reviewed their systems for compliance with licence conditions and confirmed compliance, having considered any risks and mitigations.

Provision FT4 of NHS Foundation Trust Code of Governance relates to Licence General Condition 6 and reads:

The Trust must have effective Board and committee structures, reporting lines and risk management systems; and processes that ensure compliance with Care Quality Commission (CQC) and other regulatory standards; and compliance with the duty to operate economically, efficiently and effectively.

3. Corporate Governance Statement

The Corporate Governance Statement (Appendix 1) comprises 20 individual statements and through regular review of the Board Assurance Framework and compilation of the Board's business cycle and the work of the Board assurance Committees, the Board has identified and reviewed the evidence required to support these statements.

It is critical that the Board is satisfied with the controls and assurances in place to support the Corporate Governance Statement as the regulator could call into question the self-declaration process, in the event that there is a breach or potential risk of breach of the governance conditions within the provider licence.

The Board will take reasonable assurance from management and the general work of internal audit, Audit Committee and the Board Assurance Committees throughout the year that the controls upon which the organisation relies to manage these areas are suitably designed, consistently applied and effective.

Throughout 2022/23, the governance arrangements have continued to operate including the command and control structures established to support the Trust's response to the coronavirus pandemic.

4. General Condition 6 – Systems for compliance with licence conditions

The Audit Committee has undertaken a detailed review of each of the provisions of the provider licence on an annual basis and has in place a system for quarterly review of a checklist of key licence conditions, to ensure that any emerging risks to compliance with the licence are identified and mitigated at an early opportunity.

Throughout 2022/23 the Audit Committee has monitored the checklist, with the following exceptions noted:

- **Diagnostic performance** – the Covid pandemic placed considerable pressure on the diagnostic services with reduced throughput taking account of safe Infection Prevention Control (IPC) measures. Coming out of the pandemic the Trust responded quickly to restoring diagnostics services to almost pre-pandemic levels. There was a significant backlog of patients waiting longer than 6 weeks, in line with the majority of NHS organisations, but the Trust was able to achieve compliance with the 6 week target from May 2021. There are still a number of risks associated with achievement of the target, mainly relating to availability of workforce and implications from the continued industrial action.
- **Referral To Treatment (RTT)** – Due to reduced operating during the Covid pandemic the Trust accumulated a backlog of patients that are waiting longer than 18 and 52 weeks for treatment, predominantly on the admitted pathway. In line

with national standards the Trust approached recovery prioritising the most clinically urgent patients first and then by waiting time on the waiting list. This inevitably means that patients will continue to breach the RTT standards until the backlogs are fully recovered which at present is unknown but is being modelled through the annual planning process for 2022/23. This position and forecast demonstrates strong performance and recovery when benchmarked across the country. Industrial action continues to impact activity trajectories.

- **Rollover of contracts** - due to the ongoing Covid-19 pandemic, contracts for 2022/23 continued to be rolled over.

The systems for compliance with the licence conditions are well embedded, and the Board has received regular updates and modelling of financial assumptions, recovery plans and performance. Planning guidance for 2023/24 has been reviewed and planning is progressing in the context of system guidance and timeframes.

5. Continuity of Services Condition 7 – Availability of Resources

LHCH continues to be categorised as Segment 1 under NHSE's Single Oversight Framework.

The Board receives an annual going concern report as evidence to support compliance with this licence condition.

6. Certification on AHSCs and Governance

The Trust has academic / research partnership with LHP (Liverpool Health Partners), a company limited by guarantee. This partnership does not fall within the definition of an AHSC (Academic Health Sciences Centre) or a major joint venture. LHCH became the host for LHP on 1st February 2020 and for the North West Coast Innovation Agency from 1st April 2020.

7. Training of Governors

The Health & Social Care Act requires Boards to ensure that governors are equipped with the skills and knowledge they need to undertake their role, through the provision of necessary training.

During 2022/23, the Trust has:

- Provided a local (electronic) induction pack for every new governor on appointment and an initial induction meeting with Chair.
- Provided an annual induction day for new governors and for existing governors who would like a refresher (externally facilitated) – this event was conducted via Zoom.
- Provided an annual Governor development day, part of which is dedicated to joint work with the Board - this event was conducted face to face.
- Provided access to the NHS Providers' *Govern Well* Programme.
- Provided opportunity for governors to attend the NHS Providers Annual Conference.
- Provided opportunity for governors to attend Virtual Governor Workshops organised by NHS Providers.

- vii) Provided presentations at CoG meetings to brief governors on aspects of services provided by the Trust as requested.
- viii) Provided resources and supported Governors to deliver a programme of member engagement events and newsletters. Engagement events continued to be restricted due to the pandemic.
- ix) Published specific public and staff governor pre-election material for prospective governors clarifying the role and skills and time commitment required.
- x) Held monthly Chair's Lunch meetings to ensure regular contact and discussion with the Chair, including an opportunity to share and discuss key topics.
- xi) Provided regular written communications bulletins to Governors to update on the Covid-19 status of the hospital, infection prevention measures and other key news.
- xii) Continued to run and support the Membership and Communication Sub Committee which offers governors opportunity to shape and implement the Trust's membership strategy.
- xiii) Supported governor members of the Nomination and Remuneration Committee (NEDs) to review the Char and NED succession plan, manage the Chair and NED recruitment and re-appointments.
- xiv) Continued to provide Governor development sessions related to key assurance committees.

8. Recommendation

The Council of Governors is asked to review the paper and attached statements and to provide any views for consideration by the Board of Directors.

Should any exceptional issues arise from the Board's discussion or there is a notified change in regulatory requirements then these matters will be highlighted to Governors at the next Council meeting.