

Council of Governors Item 13.1

Subject: Regulatory Update
Date of meeting: 19th September 2023
Presented by: Karan Wheatcroft, Director of Risk and Improvement
Purpose: To Note

1. Executive Summary

Revised regulatory guidance was published for implementation in 2023, including the Addendum on system working and collaboration: The role of foundation trust councils of governors; the Code of Governance; and the Provider Licence. The Trust completed a baseline assessment of each of these, and these were reviewed through the relevant governance meetings. The baseline assessments demonstrated continued strong compliance across a range of areas, with a small number of actions identified against some of the new areas within the guidance.

The purpose of this paper is to provide assurance to the Council of Governors (COG) on progress against the actions plans to ensure regulatory compliance in 2023/24.

2. Progress Updates

2.1 Addendum on system working and collaboration: The role of foundation trust councils of governors

A revised Addendum on system working and collaboration: The role of foundation trust councils of governors was published by NHS England (NHSE) in October 2022. A baseline assessment against the addendum demonstrated good compliance with a number of key areas including governor engagement, and strong working relationship with the Board of Directors. A small number of actions were identified and progress against these actions is set out below.

Action	Responsibility/ timeframe	Progress
1. COG Objectives to be updated to reflect Addendum requirements including <ul style="list-style-type: none"> the triple aim and health inequalities public at large including population of the local systems interests beyond their own ICS duties in the context of ICS and system working 	KWh, Dec 22	Complete – 2023 COG objectives were updated to reflect addendum requirements.
2. COG workplan to be reviewed to include information of the System strategy and plans,	KWh, Jan 23	Complete – System information continues to be

Action	Responsibility/ timeframe	Progress
as well as performance alongside the Trust performance.		shared through a number of forums including COG meetings, Chairs lunches, Chairs briefing and Board of Directors.
3. The role of COGs within systems is not yet clear and the Trust continues to work with the ICB (Integrated Care Board) and CMAST (Cheshire and Merseyside Acute and Specialist Trust provider collaborative) to understand the emerging roles and decision making within the new system architecture.	VD, Ongoing	In progress – We continue to work with the ICB and CMAST to ensure an understanding of roles in the system, and supported an MIAA event for Governors in 2023.

2.2 Code of Governance

The baseline assessment against the Code of Governance was reported to the Audit Committee in March 2023 and showed strong compliance. A number of actions were identified, specifically relating to changes in the code. The action plan and progress update is set out below.

Code ref.	Action	Responsibility/ Timeframe	Progress Update
APPENDIX A – Board Leadership and Purpose			
A2.3	We are currently developing a “Culture and Wellbeing” strategy for 23/24 and this will align with the NHS wellbeing framework that LHCH has signed up to.	Chief People Officer, Sept 23	In progress - NHS Wellbeing Framework self assessment is complete. Development of the wellbeing strategy in progress to be reviewed by the People Committee in September prior to submission to the Board
A2.5	Further work progressing on health inequalities analysis, disaggregation of data, interventions and actions to be developed alongside performance report (updates to Board of Directors).	Chief Operating Officer, Sept 23	In progress – session held with the Board in March 23 and an update on approach and priorities agreed by the Board, April 23. Further update scheduled for November 23.
A2.8	To ensure the annual report describes system and place based partners and key partnerships for collaboration	Director of Risk and Improvement, June 23	Complete – annual report approved by Board, June 23
A2.10	Managing Conflicts of Interest Policy to be reviewed in context of system.	Director of Risk and Improvement	Complete – approved by the Board, July 23
B2.9	Continued focus on NED diversity including development of an Associate NED role.	Chair, Sept 23	Complete – Associate NED recruited Sept 23
C2.8	To ensure Nomination and Remuneration Committee (NEDs) is available publicly on the Trust Website.	Director of Risk and Improvement, July 23	In progress – To be added to new Website
C4.1	Fit and Proper Persons* additional requirement agreed for company	Director of Risk and Improvement, June	Complete – Approved by Board, July 23

Code ref.	Action	Responsibility/ Timeframe	Progress Update
	checks etc. to be done every 3 years for Executive Directors from 2023.	23	
C4.1	Review Fit and Proper Persons Policy against new provider licence once issued.	Director of Risk and Improvement	Complete – Approved by Board, July 23
C4.7	Well led preparation ongoing and external review to be commissioned in Q4 23/24.	Chief Executive, March 24	In progress – Well led self-assessment progressing well
C4.8	To progress the COG action plan for the Addendum for governors.	Chair/ Director of Risk and Improvement, Ongoing	In progress – See specific section above
C4.10	To update the constitution to reflect the voting majority for removal of a Governors.	Director of Risk and Improvement, June 23	Complete – Constitution updated for review and approval, Sept 23
C4.13	To ensure the annual report includes all the nomination and remuneration committee details described in this requirement.	Director of Risk and Improvement, June 23	Complete – annual report approved by Board, June 23
E2.4	Nomination and Remuneration Committee (Exec) to consider compensation commitments.	Chief People Officer, Sept 23	In progress
APPENDIX B – COG			
2.2	To review the COG structure and composition in 2023/24.	Chair/ Director of Risk and Improvement, Mar 24	Complete – reviewed as part of Constitution update, Sept 23
2.8	Wording in Constitution to be updated to reflect raising issues to Chair or SID prior to formal action to remove NED/ Chair.	Director of Risk and Improvement, June 23	Complete – Constitution updated for review and approval, Sept 23
2.9	To deliver the actions from the assessment of the new Addendum for Governors.	Chair/ Director of Risk and Improvement	In progress – See specific section above
3.7	Wording in the Constitution to be reviewed to ensure it reflects new code of governance wording around transactions (e.g. public at large and focus on due diligence of processes).	Director of Risk and Improvement	Complete – Constitution updated for review and approval, Sept 23

**Note: New Fit and Proper Persons Framework published by NHS England in August 2023, and this is being incorporated into the LHCH policy and processes from 30th September 2023.*

2.3 Provider Licence

The baseline assessment against the new Provider Licence showed continued strong compliance with the regulatory requirements. This was reviewed by the Audit Committee In July 2023, and the committee will continue to receive quarterly updates against an agreed checklist. The actions arising from the baseline assessment are provided below along with a progress update.

Action	Responsibility/ Timeframe	Progress update
1. Contribution to delivery of C&M financial strategic objectives.	Chief Finance Officer, End Mar 24	In progress – LHCH continue to support the C&M financial strategy and objectives
2. Additional fit and proper persons check put in place for Executive Directors every 3 years.	Director of Risk and Improvement, July 23	Complete – Policy approved by the Board, July 23
3. Constitution to be amended in 2023/24 to reflect Health and Care Act, and changes to Code of Governance.	Director of Risk and Improvement, Sept 23	Complete – Constitution updated for review and approval, Sept 23
4. Well led self-assessment in 2023/24 and external review to be considered.	Board, End Mar 24	In progress – Well led self assessment progressing well
5. Requirement to submit resource requirement certificate to be confirmed as part of annual reporting processes for 2023/24.	Chief Finance Officer, End Mar 24	In progress – guidance due later in year

3. Conclusion

Good progress is being made against the actions identified from the baseline assessments. Action plans will continue to be monitored and updates provided to the Council of Governors.

4. Recommendation

The Council of Governors is asked to **Note** the progress in respect of the actions plans to ensure regulatory compliance in 2023/24.