

## The NHS Foundation Trust Code of Governance – Assessment of Compliance – Updated March 2019

	Statutory requirement and therefore mandatory; no disclosure required
	Requires supporting explanation and must be referenced within the annual report
	Supporting information is to be made <b>publically</b> available - either on trust website or on request
	Supporting information to be made available to <b>governors</b>
	Supporting information to be made available to <b>members</b>
	'Comply or explain' – disclosure required where Trust has departed from the Code – must give reasons and explain how alternative arrangements continue to reflect the main principles of the Code

### A. Leadership

#### A.1 The Board of Directors

##### Main Principles

- Every NHS foundation trust should be headed by an effective board of directors. The board is collectively responsible for the performance of the NHS foundation trust.
- The general duty of the board of directors, and of each director individually, is to act with a view to promoting the success of the organisation so as to maximise the benefits for the members of the trust as a whole and for the public.

Section	Code Provision	Current Position	Action Required	Comply or Explain
A.1.1	<ul style="list-style-type: none"> <li>▪ Sufficiently regular meetings of the BoD</li> <li>▪ Formal schedule of matters reserved for decision by the BoD</li> <li>▪ To include a clear statement detailing role and responsibilities of CoG</li> <li>▪ Statement explaining how disagreements between the CoG</li> </ul>	<ul style="list-style-type: none"> <li>▪ BoD scheduled to meet at least 7 times pa plus four strategic planning days</li> <li>▪ The Corporate Governance Manual includes: <ul style="list-style-type: none"> <li>➢ Scheme of Reservation and Delegation including schedule of decisions reserved for the BoD,</li> </ul> </li> </ul>		Comply

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	and BoD will be resolved <ul style="list-style-type: none"> <li>Annual Report to describe how BoD and CoG operate, including a summary of types of decision to be taken by each and which are delegated to executive management</li> <li>These arrangements to be reviewed at least annually</li> </ul>	decisions reserved for CoG and decisions delegated to executive management <ul style="list-style-type: none"> <li>The Constitution – Annex 7 (SOs for CoG) section 9 and Annex 8 (SOs for BoD) section 9 deals with the resolution of disputes between the BoD and CoG</li> <li>Annual review of Corporate Governance Manual (Audit Committee) supported by MIAA</li> </ul>		
A.1.2	<ul style="list-style-type: none"> <li>Annual Report to identify key members of the Board (incl SID) and note chairperson and members for Nominations, Audit and Remuneration Committees</li> <li>Record and report number of meetings and individual attendance</li> </ul>	<ul style="list-style-type: none"> <li>Annual Report identifies key members of the BoD and statutory Committees</li> <li>Attendance records kept and reported within annual report</li> </ul>		Comply
A.1.3	<ul style="list-style-type: none"> <li>BoD to issue objectives of Trust re interests of patients, local community and other stakeholders – as basis for decision making/forward planning</li> </ul>	<ul style="list-style-type: none"> <li>Vision statement , mission, strategic objectives and annual plan published on Trust website.</li> </ul>		Comply
A.1.4	<ul style="list-style-type: none"> <li>Adequate systems in place to measure and monitor effectiveness, efficiency, economy and quality. Board to regularly review against regulatory requirements and approved plans</li> </ul>	<ul style="list-style-type: none"> <li>Board Assurance Framework, Board dashboard, Integrated Performance Committee reports, Quality Committee reports and Quality account; annual governance statement, external audit opinion, Well led review</li> </ul>		Comply

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A1.5	<ul style="list-style-type: none"> <li>BoD to ensure that relevant metrics, measures, milestones and accountabilities are developed and agreed so as to understand and assess progress and delivery of performance. Where appropriate, independent advice (eg internal audit) should be commissioned to give adequate and reliable assurance</li> </ul>	<ul style="list-style-type: none"> <li>Board Assurance Framework</li> <li>Strategic and Operational dashboard</li> <li>Performance Oversight Framework</li> <li>Data Quality Strategy and annual document describing how Board metrics will be measured (criteria for assignment of RAG ratings)</li> <li>Internal audit programme in place and reviewed regularly at Audit Committee</li> </ul>		Comply
A.1.6	<ul style="list-style-type: none"> <li>Board to report on its approach to clinical governance and its plans to improve clinical quality in accordance with regulatory guidance</li> <li>Board to record where within organisational structure consideration of clinical governance matters occurs</li> </ul>	<ul style="list-style-type: none"> <li>Quality Strategy in place and monitored via Quality Committee</li> <li>Quality Report included in Annual Report</li> </ul>		Comply
A.1.7	<ul style="list-style-type: none"> <li>CEO to follow the Accounting Officer procedure</li> </ul>	<ul style="list-style-type: none"> <li>CEO is fully aware of responsibilities within Accounting Officer Memorandum</li> <li>Responsibilities are set out in BoD approved Governance Manual</li> </ul>		Comply
A.1.8	<ul style="list-style-type: none"> <li>BoD to establish the constitution and standards of conduct for the Trust and its staff in accordance with The Nolan Principles</li> </ul>	<ul style="list-style-type: none"> <li>Constitution established</li> <li>The Governance Manual includes Codes of Conduct and Accountability and Standards of</li> </ul>		Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
		Business Conduct; and Declaration of Interests Policy		
A.1.9	<ul style="list-style-type: none"> <li>BoD to operate a code of conduct that builds on values and reflects high standards of probity and responsibility</li> <li>BoD should follow policy of openness and transparency unless this is in conflict with a need to protect wider public interests and make clear how potential conflicts of interest are dealt with</li> </ul>	<ul style="list-style-type: none"> <li>Board Code of Conduct in place</li> <li>A register of interests is maintained and reviewed by the Board annually</li> <li>All Board members are asked to declare interests relating to the Board agenda at the start of each BoD meeting</li> <li>The FT Constitution Para 29 and SOs (Annex 8, section 7) incorporates a clear process for dealing with conflicts of interest</li> </ul>		<b>Comply</b>
A.1.10	<ul style="list-style-type: none"> <li>Appropriate insurance cover to cover the risk of legal action against directors</li> <li>Where indemnity is in place for Governors (not a legal requirement) this can be detailed in the constitution</li> </ul>	<ul style="list-style-type: none"> <li>Directors cover within CNST provisions has been enhanced with commercial insurance for Directors' liability</li> <li>No separate indemnity is in place for Governors as potential for liability negligible</li> </ul>		<b>Comply</b>

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**A.2 Division of Responsibilities**

**Main Principle**

There should be a clear division of responsibilities at the head of the NHS foundation trust between the chairing of the boards of directors and governors and the executive responsibility for the running of the NHS foundation trust's business. No one individual should have unfettered powers of decision.

Section	Code Provision	Current Position	Action Required	Comply or Explain
A.2.1	<ul style="list-style-type: none"> <li>Division of responsibility between chair and CEO to be clearly established, set out in writing and agreed by BoD</li> </ul>	<ul style="list-style-type: none"> <li>Set out clearly within the Governance Manual – Code of Accountability sets out role of Chair; Accountable Officer Memorandum sets out responsibilities of CEO</li> <li>Referenced in Annual Report</li> </ul>		Comply
A.2.2	<ul style="list-style-type: none"> <li><b>The roles of the chairperson and chief executive must not be undertaken by the same individual</b></li> </ul>			

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### A.3 The Chairperson

#### Main Principle

The Chairperson is responsible for the leadership of the Board of Directors and the Council of Governors, ensuring their effectiveness on all aspects of their role and leading on setting the agenda for meetings.

Section	Code Provision	Current Position	Action Required	Comply or Explain
A.3.1	<ul style="list-style-type: none"> <li>The Chairperson should, on appointment by the CoG meet the independence criteria set out in B1.1</li> <li>A CEO should not go on to be the Chairperson of the same NHS foundation trust</li> </ul>	<ul style="list-style-type: none"> <li>The Trust has determined that the Chair continues to be independent despite his term of office exceeding 6 years – this is reviewed by BoD annually.</li> </ul>		Comply

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### A.4 Non-Executive Directors

#### Main Principle

As part of their role as members of a unitary board, non-executive directors should constructively challenge and help develop proposals on strategy. Non-executive directors should also promote the functioning of the board as a unitary board.

Section	Code Provision	Current Position	Action Required	Comply or Explain
A.4.1	<ul style="list-style-type: none"> <li>BoD to appoint Senior Independent Director (SID), in consultation with the CoG</li> </ul>	<ul style="list-style-type: none"> <li>SID is appointed by the BoD in consultation with CoG (5.3.18)</li> </ul>		Comply
A.4.2	<ul style="list-style-type: none"> <li>Chair to meet with NEDs without Execs.</li> <li>SID to meet with NEDs, without Chair, at least annually re Chair's performance as part of a process agreed with CoG</li> </ul>	<ul style="list-style-type: none"> <li>Chair meets with NEDs on a monthly basis</li> <li>SID leads process for appraisal of Chair, as agreed with CoG and this includes a private meeting with NEDs</li> </ul>		Comply
A.4.3	<ul style="list-style-type: none"> <li>Where directors have concerns, which cannot be resolved, they are recorded in board minutes</li> </ul>	<ul style="list-style-type: none"> <li>Board minutes fully record all matters raised, and would document an unresolved concern if this were to arise</li> <li>Draft Board minutes are reviewed at the subsequent Board meeting to ensure they provide a true account of the proceedings prior to approval by the Board</li> </ul>		Comply

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### A.5 Governors

#### Main Principles

- The CoG has a duty to hold the non-executive directors individually and collectively to account for the performance of the board of directors. This includes ensuring the Board acts so that the FT does not breach the conditions of its licence. It remains the responsibility of the board to design and implement agreed priorities, objectives and the overall strategy of the FT
- The CoG is responsible for representing the interests of the NHS FT members and the public and staff in the governance of the trust. Governors must act in the best interests of the NHS foundation trust and should adhere to its values and code of conduct.
- Governors are responsible for regularly feeding back information about the trust, its vision and its performance to members and the public and the stakeholder organisations that either elected or appointed them. The trust should ensure governors have appropriate support to help them discharge this duty.

Section	Code Provision	Current Position	Action Required	Comply or Explain
A.5.1	<ul style="list-style-type: none"> <li>CoG to meet sufficiently regularly – Governors must make every effort to attend, Trust to facilitate this</li> </ul>	<ul style="list-style-type: none"> <li>CoG meetings take place on a quarterly basis – attendance is monitored and the meetings are scheduled well in advance and facilitated by the Trust</li> </ul>		Comply
A.5.2	<ul style="list-style-type: none"> <li>CoG not too large to be unwieldy.</li> <li>Role, structure, composition and procedures of the CoG to be reviewed regularly</li> </ul>	<ul style="list-style-type: none"> <li>Composition of CoG is set out in constitution and was last reviewed in March 2019.</li> </ul>		Comply
A.5.3	<ul style="list-style-type: none"> <li>Annual Report to identify CoG members, incl lead governor, and description of constituency they represent, whether elected or appointed and term of office</li> <li>Record of attendance at CoG to be kept and made available to members on request</li> </ul>	<ul style="list-style-type: none"> <li>Annual Report contains this information</li> <li>Record of Governor attendance at CoG is kept and reviewed at each CoG meeting</li> </ul>		Comply



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A.5.4	<ul style="list-style-type: none"> <li>Roles and responsibilities of CoG set out in written document – with explanation of responsibilities of CoG towards members and other stakeholders, and how Governors will seek views and inform them.</li> </ul>	<ul style="list-style-type: none"> <li>Roles &amp; responsibilities of the CoG are set out in Governance Manual (D1)</li> <li>Membership Strategy in place</li> <li>Membership and Communications Sub Committee reviews and develops the mechanisms for governors to inform and engage with members</li> </ul>		<b>Comply</b>
A.5.5	<ul style="list-style-type: none"> <li>Chair is responsible for leadership but Governors have a responsibility to make CoG arrangements work and should take the lead in inviting the CEO, Execs and NEDs to meetings and raising questions about the affairs of the FT</li> </ul>	<ul style="list-style-type: none"> <li>Members of BoD regularly attend CoG meetings and a joint development day is scheduled annually</li> <li>NEDs and Execs attend Governor interest groups, prior to CoG</li> <li>Governors review and develop the performance report / dashboards to meet their needs (Governance Task Group as needed).</li> </ul>		<b>Comply</b>
A.5.6	<ul style="list-style-type: none"> <li>CoG to establish policy for engagement with BoD – for concerns re performance of BoD, compliance with the provider licence matters relating to the overall welfare of trust</li> <li>CoG should input into the Board's appointment of a senior independent director</li> </ul>	<ul style="list-style-type: none"> <li>Trust performance is reviewed at each CoG meeting</li> <li>Governor interest groups established</li> <li>Regular Chair's lunch meetings provide opportunity for informal engagement</li> <li>Chair consults Governors on appointment of SID</li> </ul>		<b>Comply</b>

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Section	Code Provision	Current Position	Action Required	Comply or Explain
A.5.7	<ul style="list-style-type: none"> <li>CoG to ensure its interaction and relationship with BoD is appropriate and effective</li> </ul>	<ul style="list-style-type: none"> <li>Board members regularly attend CoG meetings</li> <li>Annual Joint development for CoG and BoD includes evaluation of Bod / CoG interaction</li> <li>Governor interest groups supported by NEDs and execs</li> <li>Quarterly Chair's lunch meeting</li> </ul>		<b>Comply</b>
A.5.8	<ul style="list-style-type: none"> <li>CoG should only use power to remove chair or NED after exhausting all other means of engagement with BoD</li> </ul>	<ul style="list-style-type: none"> <li>Governors are provided with opportunity to raise any concerns via informal Chair's lunch meetings and through direct contact with Chair, Trust Secretary or SID</li> </ul>		<b>Comply</b>
A.5.9	<ul style="list-style-type: none"> <li>CoG to receive and consider other appropriate information to discharge its duties – clinical and operational data</li> </ul>	<ul style="list-style-type: none"> <li>GoG receives a range of clinical and operational data and this is reviewed periodically and the appropriateness of this is tested periodically (Governance Task Group convened as required)</li> </ul>		<b>Comply</b>
A.5.10	<ul style="list-style-type: none"> <li><b>CoG has statutory duty to hold NEDs individually and collectively to account for the performance of the BoD</b></li> </ul>			
A.5.11	<ul style="list-style-type: none"> <li><b>Statutory requirement for CoG to receive:</b> <ul style="list-style-type: none"> <li>- Annual report and accounts</li> <li>- Any report of auditor on them</li> <li>- Annual report</li> </ul> </li> </ul>			

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Section	Code Provision	Current Position	Action Required	Comply or Explain
A.5.12	<ul style="list-style-type: none"> <li>Governors must be provided with agenda prior to any meeting of BoD and approved minutes as soon as practicable afterwards</li> </ul>			
A.5.13	<ul style="list-style-type: none"> <li>CoG may require one or more directors to attend CoG to obtain information about the performance of the Trust, and to help Governors decide on whether to propose a vote on the Board's or director's performance</li> </ul>			
A.5.14	<ul style="list-style-type: none"> <li>Governors may refer a question to Monitor's (now NHSI) independent panel for advising governors (50% of governors who vote must approve the referral)</li> <li>CoG should ensure dialogue with BoD before considering such a referral</li> </ul>	Note : The independent panel for advising governors has been disbanded. Independent advice can be sought from NHS Providers.		
A.5.15	<ul style="list-style-type: none"> <li>Governors should use new rights and voting powers from 2012 Act to represent interests of members and public on major decisions taken by the BoD:                             <ul style="list-style-type: none"> <li>Amendments to constitution</li> <li>Significant transactions</li> <li>Merger, acquisition, separation or dissolution</li> <li>Increase in proportion of income earned from non NHS activity (5% pa or more)</li> <li>Interference of non –NHS</li> </ul> </li> </ul>			

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Section	Code Provision	Current Position	Action Required	Comply or Explain
	work with Trust's principal purpose			

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### B. Effectiveness

#### B.1 The Composition of the Board

##### Main Principle

The board of directors and its committees should have the appropriate balance of skills, experience, independence and knowledge of the NHS foundation trust to enable them to discharge their respective duties and responsibilities effectively.

Section	Code Provision	Current Position	Action Required	Comply or Explain
B.1.1	<ul style="list-style-type: none"> <li>BoD should identify in Annual Report each NED it considers to be independent.</li> <li>BoD to determine independence of each NED (refer criteria)</li> </ul>	<ul style="list-style-type: none"> <li>Board reviews criteria for independence of each NED on appointment and annually</li> </ul>	Board to consider independence of each NED in March 19, to support annual reporting disclosure	Comply
B.1.2	<ul style="list-style-type: none"> <li>At least half the board, excluding the chair should comprise independent NEDs</li> </ul>	<ul style="list-style-type: none"> <li>Composition of the Board is compliant with this requirement</li> </ul>		Comply
B.1.3	<ul style="list-style-type: none"> <li>No individual should hold, at the same time, positions of director and governor of any FT</li> </ul>	<ul style="list-style-type: none"> <li>Compliant – all Directors have completed declarations of interests</li> </ul>	Board to review RoI- March 19	Comply
B.1.4	<ul style="list-style-type: none"> <li>Annual Report to detail each director's area of expertise and clear statement about BoD's balance, completeness and appropriateness to the requirements of the FT</li> </ul>	<ul style="list-style-type: none"> <li>This information is detailed in the latest annual report and published on LHCH website</li> </ul>		Comply
	<ul style="list-style-type: none"> <li>Both statements to be available on FT's internet site</li> </ul>			Comply

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**B.2 Appointments to the Board**

**Main Principle**

There should be a formal, rigorous and transparent procedure for the appointment of new directors to the board of directors. Directors of NHSFTs must be 'fit and proper' to meet the requirements of the general conditions of the provider licence.

Section	Code Provision	Current Position	Action Required	Comply or Explain
B.2.1	<ul style="list-style-type: none"> <li>The Nominations Committee(/s), with external advice as appropriate, are responsible for the identification and nomination of executive and non-executive directors</li> <li>Nominations Committee(/s) to give full consideration to succession planning, taking into account future challenges, risks and opportunities facing the trust and the skills and expertise required to meet these.</li> </ul>	<ul style="list-style-type: none"> <li>Two Nominations Committees – one for Execs and one for NEDs have been established and undertake these roles</li> </ul>		Comply
B.2.2	<ul style="list-style-type: none"> <li>Directors and Governors to meet 'fit and proper persons' test as described in the provider licence</li> </ul>	<ul style="list-style-type: none"> <li>Documentary evidence to support FPPT collated and reviewed for all Board Directors</li> <li>Annual self-certification process in place for directors and governors</li> </ul>		Comply

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<b>B.2.3</b>	<ul style="list-style-type: none"> <li>Nominations Committee(s) should regularly review structure, size and composition of BoD and make recommendations for changes as appropriate – Nom Comm to evaluate at least annually the balance of skills, knowledge and experience on BoD and in light of this prepare a description of the role and capabilities required for appointment of both exec and non exec directors, including the Chair</li> </ul>	<ul style="list-style-type: none"> <li>Reviews undertaken regularly (at least annually, usually July each year) and always to inform any new appointment / re-appointment</li> </ul>		<b>Comply</b>
<b>B.2.4</b>	<ul style="list-style-type: none"> <li>The Chair or an independent NED should chair the Nominations Committee(s).</li> </ul>			<b>Comply</b>
<b>B.2.5</b>	<ul style="list-style-type: none"> <li>Governors should agree with the nominations committee a clear process for the nomination of a new chair and non-exec directors</li> <li>Nominations committee should make recommendations to the CoG</li> </ul>	<ul style="list-style-type: none"> <li>These provisions are reflected within the CoG's Nominations &amp; Remuneration Committee ToR</li> </ul>		<b>Comply</b>
<b>B.2.6</b>	<ul style="list-style-type: none"> <li>Where an FT has two Nominations Committees, the Committee responsible for the appointment of NEDs should consist of a majority of governors</li> </ul>			<b>Comply</b>
<b>B.2.7</b>	<ul style="list-style-type: none"> <li>CoG to take into account the views of the board of directors on the qualifications, skills and experience required for each non-executive director position</li> </ul>			<b>Comply</b>
<b>B.2.8</b>	<ul style="list-style-type: none"> <li>Annual report should describe appointment process followed by CoG in relation to appointment of chairperson and NEDs</li> </ul>			<b>Comply</b>

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<b>B.2.9</b>	<ul style="list-style-type: none"> <li>An independent external advisor should not be a member or have a vote on the Nominations Committee(s)</li> </ul>			Comply
<b>B.2.10</b>	<ul style="list-style-type: none"> <li>Separate section of the annual report should describe work of nominations committee , including board appointments process</li> </ul>			Comply
<b>B.2.11</b>	<ul style="list-style-type: none"> <li><b>2006 Act requires that the chairperson, the other NEDs and the CEO (except in the case of the appointment of a CEO) are responsible for deciding the appointment of executive directors</b></li> <li>The Nominations C'ttee (execs) should identify suitable candidates to fill exec director vacancies as they arise and make recommendations to the Chairperson, the other NEDs and (except in the case of the appointment of a CEO) the CEO</li> </ul>			
<b>B.2.12</b>	<ul style="list-style-type: none"> <li>It is for the NEDs to appoint and remove the CEO. The appointment of a CEO requires the approval of CoG</li> </ul>			
<b>B.2.13</b>	<ul style="list-style-type: none"> <li>CoG responsible at a general meeting for the appointment, re-appointment and removal of the chairperson and the other NEDs</li> </ul>			



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**B.3 Commitment**

**Main Principle**

All directors should be able to allocate sufficient time to the NHS foundation trust to discharge their responsibilities effectively.

Section	Code Provision	Current Position	Action Required	Comply or Explain
B.3.1	<ul style="list-style-type: none"> <li>For the appointment of the chairperson, Nom Comm (NEDs) should prepare job specification including assessment of time commitment required and recognising the need for availability in event of emergency</li> <li>Chair's other significant commitments should be disclosed to CoG before appointment and included in annual report</li> <li>Changes to such commitments should be reported to CoG as they arise and included in next annual report</li> <li>No individual whilst chairperson of an FT should be the substantive chairperson of another FT</li> </ul>	<ul style="list-style-type: none"> <li>Disclosure of Chair's other significant commitments is recorded on register of interests – this is reviewed periodically at CoG</li> </ul>		Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
B.3.2	<ul style="list-style-type: none"> <li>NED terms and conditions should be made available to CoG</li> <li>Letter of appointment should set out expected time commitment</li> <li>NEDs to undertake to have sufficient time to fulfil role</li> <li>NED significant commitments should be disclosed to CoG before appointment and as changes arise</li> </ul>			Comply
B3.3	<ul style="list-style-type: none"> <li>BoD should not agree to full-time exec taking on more than one non-exec directorship of an FT or other organisation of comparable size/complexity, nor chairmanship</li> </ul>			Comply

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**B.4 Development**

**Main Principle**

All Directors and Governors should receive appropriate induction on joining the Board of Directors or Council of Governors and should regularly update and refresh their skills and knowledge. Both directors and governors should make every effort to participate in training that is offered.

Section	Code Provision	Current Position	Action Required	Comply or Explain
B.4.1	<ul style="list-style-type: none"> <li>Chair to ensure all directors and governors receive a full and tailored induction, including for directors, the opportunity to engage with key stakeholders.</li> </ul>	<ul style="list-style-type: none"> <li>Annual induction day for governors and supplemented by provision of local induction material and meetings with key personnel</li> <li>Tailored induction for directors, including opportunity for NEDs to access national induction programmes eg NHS Improvement; NHS Providers; HfMA</li> </ul>		Comply
B.4.2	<ul style="list-style-type: none"> <li>Chair to review and agree with each director their training and development needs as they relate to their role on the Board</li> </ul>	<ul style="list-style-type: none"> <li>All directors have a PDP</li> </ul>		Comply
B.4.3	<ul style="list-style-type: none"> <li>The Board has a duty to take steps to ensure that governors are equipped with the skills and knowledge they need to discharge their duties appropriately</li> </ul>			

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**B.5 Information and Support**

**Main Principle**

The board of directors and the council of governors should be supplied in a timely manner with relevant information in a form and of a quality appropriate to enable them to discharge their respective duties.

Section	Code Provision	Current Position	Action Required	Comply or Explain
B.5.1	<ul style="list-style-type: none"> <li>BoD and CoG should be provided with high quality, appropriate information.</li> <li>BoD and CoG should agree their information needs with exec directors through the Chair</li> <li>Information for the boards should be concise, objective, accurate and timely, accompanied by clear explanations of complex issues</li> <li>BoD should have complete access to any information it deems necessary, including access to senior management and other employees</li> </ul>			Comply
B.5.2	<ul style="list-style-type: none"> <li>BoD (NEDs) may wish to challenge assurances received from Execs and should ensure they have sufficient information and understanding to enable this</li> <li>When complex, high risk issues arise, initial course is to request further / deeper analysis to be carried out in a timely way within the trust</li> <li>On occasion, NEDs may reasonably</li> </ul>	<ul style="list-style-type: none"> <li>The Committee structure and BAF process supports this provision</li> <li>Register of external visits / assurances is reviewed by audit Committee</li> </ul>		Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
	decide that external assurance is appropriate			
B.5.3	<ul style="list-style-type: none"> <li>BoD to ensure directors, especially NEDs have access to independent professional advice at the trust's expense, where this is judged necessary</li> <li>The availability of external sources of advice should be made clear on appointment</li> </ul>			Comply
B.5.4	<ul style="list-style-type: none"> <li>Committees to be provided with sufficient resources to undertake their duties.</li> <li>BoD should also ensure CoG has sufficient resources.</li> </ul>			Comply
B.5.5	<ul style="list-style-type: none"> <li>NEDs should consider whether they are receiving the necessary information in a timely manner and feel able to raise appropriate challenge of recommendations, making full use of their skills and experience gained both as a director of the trust and in other leadership roles</li> <li>NEDs should expect and apply similar standards of care and quality in their role as a NED as they would in other similar roles</li> </ul>			Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
B.5.6	<ul style="list-style-type: none"> <li>Governors should canvass opinions of members and public (and appointed governors, the opinion of the body they represent) on the FT's forward plan (objectives, priorities and strategy) and their views should be communicated to the BoD</li> <li>Annual report to contain a statement as to how this requirement has been undertaken and satisfied.</li> </ul>	<ul style="list-style-type: none"> <li>Governors canvass opinions through Newsletters, member surveys, a programme of engagement events, involvement in patient and family feedback days and input into the planning process through a programme of joint work with the BoD</li> </ul>		<b>Comply</b>
B.5.7	<ul style="list-style-type: none"> <li>Where appropriate, the BoD should take account of the views of the CoG on the forward plan in a timely manner and communicate to CoG where their views have been incorporated into the trust's plans, and if not, the reasons for this</li> </ul>	<ul style="list-style-type: none"> <li>Annual joint BoD / CoG development day</li> <li>Consultation on annual planning assumptions</li> </ul>		<b>Comply</b>
B.5.8	<ul style="list-style-type: none"> <li>The BoD must have regard for the views of CoG on the NHS foundation trust's forward plan.</li> </ul>			

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### B.6 Evaluation

#### Main Principles

- The board of directors should undertake a formal and rigorous annual evaluation of its own performance and that of its committees and individual directors.
- The outcomes of the evaluation of the executive directors should be reported to the board of directors. The chief executive should take the lead on the evaluation of the executive directors.
- The council of governors which is responsible for the appointment and re-appointment of the non-executive directors, should take the lead on agreeing a process for the evaluation of the chair and the non-executives. The outcomes of the evaluation of the non-executive directors should be agreed with them by the chairperson. The outcomes of the evaluation of the chairperson should be agreed by him / her with the SID. The outcomes of the evaluation of NEDs and the chair should be reported to the governors. The governors should bear in mind the desirable use of the SID to lead on the evaluation of the Chair.
- The council of governors should assess its own collective performance and its impact on the NHS foundation trust.

Section	Code Provision	Current Position	Action Required	Comply or Explain
B.6.1	<ul style="list-style-type: none"> <li>▪ BoD should state in the annual report how performance evaluation of the board, its committees, and its directors including the chair, has been conducted, bearing in mind the desirability for independent assessment and the reason why the FT has adopted a particular method of performance evaluation</li> </ul>	<ul style="list-style-type: none"> <li>▪ Well Led review facilitated by MIAA (March 2017)</li> <li>▪ Evaluation of Board meeting undertaken at end of each meeting</li> <li>▪ Annual evaluation of Audit Committee facilitated by MIAA</li> <li>▪ IPRs completed at least annually for all directors</li> </ul>		Comply
B.6.2	<ul style="list-style-type: none"> <li>▪ 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. The external facilitator should be identified in the annual report and a statement made as to</li> </ul>	<ul style="list-style-type: none"> <li>▪ Completed March 2017 – facilitated by MIAA – review led by specialist associate (not internal audit team)</li> </ul>		Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
	whether they have any other connection to the trust			
B.6.3	<ul style="list-style-type: none"> <li>SID should lead the performance evaluation of the Chair, within a framework agreed by CoG and taking into account the views of directors and governors</li> </ul>	Process to be reviewed and approved by CoG , March 19		Comply
B.6.4	<ul style="list-style-type: none"> <li>The Chair, with assistance of Board Secretary should use the performance evaluations as the basis for determining individual and collective development programmes for NEDs relevant to their duties as Board members</li> </ul>			Comply
B.6.5	<ul style="list-style-type: none"> <li>Led by Chair, CoG should assess its collective performance and should communicate on how CoG responsibilities have been discharged , including impact and effectiveness on:                             <ul style="list-style-type: none"> <li>Holding NEDs individually and collectively to account for performance of the BoD</li> <li>Communicating with member constituencies and the public and transmitting their views to BoD ; and</li> <li>Contributing to the development of forward plans of FTs</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Development Day October 2018</li> </ul>		Comply



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Section	Code Provision	Current Position	Action Required	Comply or Explain
B.6.6	<ul style="list-style-type: none"> <li>Clear policy and a fair process for the removal from the council of any governor that consistently and unjustifiably fails to attend meetings of the CoG, has a conflict of interest, or fails to discharge their responsibilities</li> <li>Process may provide for removal of governor/s where behaviour or actions are incompatible with the values of the trust</li> <li>Where this is disagreement as to whether a proposal for removal is justified, an independent assessor, agreeable to both parties should be requested to consider evidence and determine whether removal was reasonable or otherwise</li> </ul>	<ul style="list-style-type: none"> <li>In practice the Trust invests time to build a strong relationship with each Governor and where there have been issues that have been incompatible with the effective operation of the CoG, then any governor concerned has resigned by mutual consent (no recent issues)</li> <li>Formal policy considered by Governors' Governance Group in April 2014, but view taken that process outlined in the constitution is sufficient on this.</li> </ul>		Comply

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**B.7 Re-appointment of directors and re-election of governors**

**Main Principle**

All NEDs and elected governors should be submitted for re-appointment or re-election at regular intervals. The performance of executive directors of the board should be subject to regular appraisal and review. The council of governors should ensure planned and progressive refreshing of the NEDs.

Section	Code Provision	Current Position	Action Required	Comply or Explain
B.7.1	<ul style="list-style-type: none"> <li>Reappointment of NEDs- Chair to confirm to governors that following performance evaluation, the individual proposed for re-appointment continues to be effective and demonstrates commitment to the role</li> <li>Any NED term beyond 6 years (two 3 year terms) should be subject to rigorous review and take account of need for progressive refreshing of the board. In exceptional circumstances, NEDs may serve longer than 6 years but this should be subject to annual re-appointment and could be relevant to the determination of a NED's independence</li> </ul>	<p>The Chair is in his tenth year of office as Chair of the foundation trust – all re-appointments beyond 6 years have been subject to careful consideration in the context of the need for independence balanced with track record, future challenges and requirement for Board stability.</p> <p>The Council of Governors will approved a two year re-appointment in 2018 via a robust governance process which included independent advice.</p>	Disclosure in 2018/19 annual report.	EXPLAIN
B.7.2	<ul style="list-style-type: none"> <li>Elected governors must be re-elected at regular intervals – no more than three years</li> <li>Biography details to be made available at election</li> <li>Prior performance information, such as attendance records to also be</li> </ul>			Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
	made available at election			
B.7.3	<ul style="list-style-type: none"> <li>▪ Appointment of a CEO to be approved by CoG, after appointment by a committee of the Chair and NEDs</li> <li>▪ All other executive directors to be appointed by a committee of the CEO, Chair and NEDs</li> </ul>			
B.7.4	<ul style="list-style-type: none"> <li>▪ NEDs, including Chair to be appointed by CoG for specified terms subject to re-appointment thereafter at intervals of no more than 3 years and subject to 2006 Act provisions relating to removal of a director.</li> </ul>			
B.7.5	<ul style="list-style-type: none"> <li>▪ Elected governors to be subject to re-election by members of their constituency at regular intervals not exceeding 3 years</li> </ul>			

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**B.8 Resignation of Directors**

**Main Principle**

The board of directors is responsible for ensuring ongoing compliance by the FT with its licence, its constitution, mandatory guidance issued by Monitor, relevant statutory requirements and contractual obligations. In so doing, it should ensure it retains the necessary skills within its board and directors and works with the council of governors to ensure there is appropriate succession planning.

Section	Code Provision	Current Position	Action Required	Comply or Explain
B.8.1	<ul style="list-style-type: none"> <li>The Remuneration Committee should not agree to an exec member of the board leaving the employment of the trust, except in accordance with terms of contract, including but not limited to service of their full notice period and / or material reductions in their time commitment to the role, without the board first having completed and approved a full risk assessment</li> </ul>	Exec team re-structured in 2018/19 following resignation of Director of Strategic Partnerships / COO and transition plan managed effectively		Comply

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**C. Accountability**

**C.1 Financial, Quality and Operational reporting**

**Main Principle**

The board of directors should present a fair, balanced and understandable assessment of the FT's position and prospects.

Section	Code Provision	Current Position	Action Required	Comply or Explain
C.1.1	<ul style="list-style-type: none"> <li>Directors should explain responsibility for preparing accounts in the annual report</li> <li>Also statement by auditors about their reporting responsibilities</li> <li>Directors should explain their approach to quality governance in Annual Governance Statement</li> </ul>	<ul style="list-style-type: none"> <li>Annual Report includes required statements</li> </ul>		Comply
C.1.2	<ul style="list-style-type: none"> <li>Directors should report that the FT is a going concern</li> </ul>	<ul style="list-style-type: none"> <li>Annual Report includes supporting assumptions and qualifications as necessary, with auditor's opinion</li> <li>CFO Report to BoD on Going Concern – March 19</li> </ul>		Comply
C.1.3	<ul style="list-style-type: none"> <li>At least annually Board should set out clearly its financial, quality and operating objectives and disclose sufficient information to allow members and governors to evaluate the Trust's performance</li> </ul>	<ul style="list-style-type: none"> <li>Annual plan</li> <li>Review of performance is set out in annual report in accordance with ARM requirements</li> </ul>		Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
C.1.4a	<ul style="list-style-type: none"> <li>BoD must notify Monitor (now NHSI) and CoG without delay and the public if appropriate, about any major new developments which may lead to a substantial financial, performance or reputation change</li> </ul>			Comply
C.1.4b	<ul style="list-style-type: none"> <li>BoD must notify Monitor (now NHSI) and CoG and consider whether to bring to public attention all information concerning a financial or performance change which would have a significant impact on the FT</li> </ul>			

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**C.2 Risk Management and Internal Control**

**Main Principles**

- The board is responsible for determining the nature and extent of the significant risks it is willing to take in achieving its strategic objectives. The board should maintain sound risk management systems.
- The board should maintain a sound system of internal control to safeguard patient safety, public and private investment, the NHS foundation trust's assets, and service quality. The Board should report on internal control through the Annual Governance Statement in the annual report

Section	Code Provision	Current Position	Action Required	Comply or Explain
C.2.1	<ul style="list-style-type: none"> <li>▪ BoD should regularly review effectiveness of systems of internal control and report to members and governors via annual report</li> <li>▪ Review should cover financial, clinical, operational controls, compliance controls and risk management systems</li> </ul>	<ul style="list-style-type: none"> <li>▪ Annual Governance Statement compiled by the Trust, reviewed by Auditors, Audit Committee and approved/signed by BoD</li> </ul>		Comply
C.2.2	<ul style="list-style-type: none"> <li>▪ Annual report disclosure on role and structure of internal audit function</li> </ul>			Comply

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**C.3 Audit Committee and auditors**

**Main Principle**

The Board should establish formal and transparent arrangements for considering how they should apply the corporate reporting and risk management and internal controls principles and for maintaining an appropriate relationship with the trust's auditors.

Section	Code Provision	Current Position	Action Required	Comply or Explain
C.3.1	<ul style="list-style-type: none"> <li>BoD must establish an audit committee composed of at least three independent NEDs</li> <li>BoD should satisfy itself that the audit committee has sufficient skills and at least one member of audit committee has recent/ relevant financial experience</li> <li>The chair of the trust should not be a member of the audit committee but may attend meetings by invitation, as appropriate</li> </ul>	<ul style="list-style-type: none"> <li>All 5 NEDs on Audit Committee</li> <li>Chair of Audit Committee has recent / relevant financial (/audit) experience</li> </ul>		Comply



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C.3.2	<ul style="list-style-type: none"> <li>Main roles and responsibilities of audit committee, should be set out in written terms of reference. and include details of how it will: <ul style="list-style-type: none"> <li>- monitor integrity of financial statements and any formal financial announcements;</li> <li>- review internal financial controls and review the internal control and risk management systems;</li> <li>- monitor and review effectiveness of internal audit function;</li> <li>- review and monitor external auditor's independence/objectivity and effectiveness of audit process</li> <li>- develop and implement policy on engagement of external auditor to supply non-audit services</li> <li>- report to CoG - matters for action or improvement</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Appropriate terms of reference established for Audit Committee</li> <li>External Auditor not currently engaged in non- audit services</li> <li>CoG routinely receive a report from the Audit Committee</li> </ul>		Comply
C.3.3	<ul style="list-style-type: none"> <li>CoG should take lead in agreeing with audit committee the criteria for appointing, reappointing and removing auditors</li> <li>CoG to ensure they have skills and knowledge to select right auditor and monitor their performance, supported by the audit committee</li> </ul>	Market testing process undertaken and new audit contract awarded in October 2017		Comply

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C.3.4	<ul style="list-style-type: none"> <li>Audit committee should make a report to CoG on performance of the auditor to inform decision to re-appoint or not</li> <li>Audit committee should make recommendations to CoG about the appointment, re-appointment and removal of the external auditor, and approve the remuneration and terms of engagement of the external auditor</li> </ul>			Comply
C.3.5	<ul style="list-style-type: none"> <li>If the CoG does not accept the audit committee's recommendation, the BoD should include explanatory statement in annual report – setting out reasons why CoG has taken different position</li> </ul>			Comply
C.3.6	<ul style="list-style-type: none"> <li>Auditor should be appointed for a period of time that allows strong understanding of the finances, operations and forward plans to develop – best practice 3-5 years</li> </ul>	Contract awarded in October 2017 for 3 years with opportunity to extend for a further one or two years.		Comply
C.3.7	<ul style="list-style-type: none"> <li>When CoG ends an auditor's appointment in disputed circumstances, chair should inform Monitor (NHSI) of reasons behind decision</li> </ul>			Comply

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C.3.8	<ul style="list-style-type: none"> <li>Audit committee should review arrangements by which staff can raise issues in confidence about possible improprieties in matters of financial reporting and control, clinical quality, patient safety or other matters.</li> <li>Audit committee should ensure proportionate and independent investigation and follow-up action</li> </ul>			Comply
C.3.9	<ul style="list-style-type: none"> <li>Annual report should include:                             <ul style="list-style-type: none"> <li>Significant issues considered by the committee in relation to financial statements, operations and compliance</li> <li>Explanation of how effectiveness of external audit has been assessed and approach taken to appoint / re-appoint auditor, the value of the service and information on length of tenure and when a tender was last conducted</li> <li>if auditor provides non-audit services, and explanation of how auditor objectivity and independence are safeguarded</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>Annual report compliant with ARM requirements</li> <li>Trust does not currently receive 'non-audit' services from the Auditor</li> </ul>		Comply

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**D. Remuneration**

**D.1 The level and components of remuneration**

**Main Principle**

Levels of remuneration should be sufficient to attract, retain and motivate directors of quality and with the skills and experience required to lead the NHS foundation trust successfully, but an NHS foundation trust should avoid paying more than is necessary for this purpose and should consider all relevant and current directions relating to contractual benefits such as pay and redundancy entitlements.

Section	Code Provision	Current Position	Action Required	Comply or Explain
D.1.1	<p>In designing schemes of performance-related remuneration of executive directors, the remuneration committee should:</p> <ul style="list-style-type: none"> <li>Consider whether directors should be eligible for annual bonuses. If so, conditions should be relevant, stretching and designed to match long term interests of public and patients</li> <li>Payouts should be subject to challenging performance criteria reflecting FT objectives</li> <li>Only basic pay should be pensionable</li> <li>Remuneration committee should consider pension consequences and associated costs of basic salary increases, especially for directors close to retirement</li> </ul>	<ul style="list-style-type: none"> <li>Currently no performance related schemes in place</li> </ul>		Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
D.1.2	<ul style="list-style-type: none"> <li>Levels of remuneration for chair and other NEDs should reflect time commitment and responsibilities</li> </ul>	<ul style="list-style-type: none"> <li>Additional allowance is paid to Chair of Audit Committee</li> </ul>		Comply
D.1.3	<ul style="list-style-type: none"> <li>When exec director is released to work as non-exec elsewhere, the remuneration disclosure of the annual report should include whether or not director will retain such earnings</li> </ul>	<ul style="list-style-type: none"> <li>Situation has not arisen – annual report would include relevant information if this situation arose</li> </ul>		Comply
D.1.4	<ul style="list-style-type: none"> <li>Remuneration committee should carefully consider compensation commitments of directors' in the event of early termination – the aim to avoid rewarding poor performance</li> </ul>			Comply

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### D.2 Procedure

#### Main Principle

There should be a formal and transparent procedure for developing policy on executive remuneration and for fixing the remuneration packages of individual directors. No director should be involved in deciding his or her own remuneration.

Section	Code Provision	Current Position	Action Required	Comply or Explain
D.2.1	<ul style="list-style-type: none"> <li>BoD must establish remuneration committee of NEDs</li> <li>Remuneration Committee terms of reference to be made available</li> <li>Where remuneration consultants are appointed, statement made available about whether connection with FT</li> </ul>			Comply
D.2.2	<ul style="list-style-type: none"> <li>Remuneration committee to have responsibility for setting remuneration for all exec directors, including pension rights and any compensation payments</li> <li>Remuneration committee should recommend and monitor the level and structure of remuneration for senior management</li> </ul>			Comply
D.2.3	<ul style="list-style-type: none"> <li>CoG should consult with external professional advisers to market-test remuneration levels of the chair and other non-execs at least once every three years</li> </ul>	<ul style="list-style-type: none"> <li>NHS Provider Remuneration Survey used to benchmark Chair and NED remuneration</li> </ul>		Comply
D.2.4	<ul style="list-style-type: none"> <li>CoG is responsible for setting the remuneration of NEDs and chair</li> </ul>			

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### E. Relationship with Stakeholders

#### E.1 Dialogue with Members, Patients and the Local Community

##### Main Principles

- The board of directors should appropriately consult and involve members, patients, clients and the local community.
- The Council of Governors must represent the interests of trust members and the public
- Notwithstanding the complementary role of the governors in this consultation, the board of directors as a whole has responsibility for ensuring that regular and open dialogue with its stakeholders takes place

Section	Code Provision	Current Position	Action Required	Comply or Explain
E.1.1	<ul style="list-style-type: none"> <li>▪ BoD should make available a public document setting out its 'involvement' policy</li> </ul>	<ul style="list-style-type: none"> <li>▪ Membership and PFE Strategies in place</li> <li>▪ CoG working group on Membership and Communications has been established and supports the implementation of the Membership Strategy</li> <li>▪ Membership Strategy is publicly available</li> </ul>		Comply
E.1.2	<ul style="list-style-type: none"> <li>▪ BoD should clarify in writing how public interests will be represented</li> <li>▪ Approach to addressing overlap and interface between governors and local consultative forums in place to be included</li> </ul>	<ul style="list-style-type: none"> <li>▪ Annual Report, Membership Strategy and engagement plan describe how public interests are represented</li> <li>▪ Governor involvement in Patient and Family Experience Strategy</li> </ul>		Comply

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Section	Code Provision	Current Position	Action Required	Comply or Explain
E.1.3	<ul style="list-style-type: none"> <li>The Chair should ensure the views of governors and members are communicated to the BoD</li> <li>The Chair should discuss the affairs of the FT with governors</li> <li>NEDs to attend governor meetings</li> <li>SID should attend sufficient meetings of governors to listen to views and develop understanding</li> </ul>	<ul style="list-style-type: none"> <li>Quarterly Chair's lunch meeting with Governors</li> <li>Chair's briefing is standing item on CoG agenda</li> <li>CoG receives minutes of BoD meetings and Governors invited to attend BoD</li> <li>NEDs attend CoG meetings and pre-meets / interest groups</li> <li>SID attends all / majority of CoG meetings</li> </ul>		Comply
E.1.4	<ul style="list-style-type: none"> <li>BoD should ensure effective mechanisms for communication between governors and members from its constituencies</li> <li>Contact procedures for members that wish to communicate with governors and/or directors should be made clearly available to members on the FT's website and in the annual report.</li> </ul>	<ul style="list-style-type: none"> <li>Membership Officer facilitates and supports mechanisms for communication between governors and members</li> <li>Membership Recruitment and Engagement Plan established – programme of events including Medicine for Members and Member Health Day</li> <li>Contact procedures publicly available – Trust website, annual Report and Newsletters</li> </ul>		Comply
E.1.5	<ul style="list-style-type: none"> <li>BoD should state in annual report how members of the Board, in particular NEDs, develop an understanding of the views of governors and members</li> </ul>	<ul style="list-style-type: none"> <li>1:1 meetings between Governors and Chair</li> <li>NED attendance at CoG interest groups</li> <li>Quarterly Chair's lunch</li> <li>Joint BoD / CoG development days</li> <li>NED and Governor attendance at</li> </ul>		Comply



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Section	Code Provision	Current Position	Action Required	Comply or Explain
		Member engagement events		
E.1.6	<ul style="list-style-type: none"> <li>BoD should monitor how representative its membership is, and the level and effectiveness of engagement</li> <li>This should be used to review the Membership Strategy, taking into account emerging best practice</li> </ul>	<ul style="list-style-type: none"> <li>The Membership Strategy sets out specific targets to improve representation</li> <li>CoG Working group (Membership and Comms) is tasked with establishing relevant KPIs to monitor representative membership, and level and effectiveness of engagement</li> <li>Membership targets are monitored by CoG and reported to BoD</li> </ul>		Comply
E.1.7	<ul style="list-style-type: none"> <li>BoD must make BoD meetings and annual meeting open to public (constitution may provide for exclusion for special reasons)</li> </ul>			
E.1.8	<ul style="list-style-type: none"> <li>Trust must hold AMM. At least one director must present the annual report and accounts and any report of the auditor on these, to members at this meeting</li> </ul>			

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**E.2 Co-operation with Third Parties with Roles in relation to NHS Foundation Trusts**

**Main Principle**

The board of directors is responsible for ensuring that the NHS foundation trust co-operates with other NHS bodies, local authorities and other relevant organisations with an interest in the local health economy.

Section	Code Provision	Current Position	Action Required	Comply or Explain
E.2.1	<ul style="list-style-type: none"> <li>BoD should be clear as to the specific third party bodies in relation to which the FT has a duty to co-operate</li> <li>Directors should be clear of the form and scope of the co-operation</li> </ul>			Comply
E.2.2	<ul style="list-style-type: none"> <li>BoD should ensure mechanisms are in place to co-operate with relevant third party bodies and that relationships are maintained</li> <li>Periodically the Board should review effectiveness and relationships and take steps to improve them</li> </ul>	<ul style="list-style-type: none"> <li>Cheshire and Merseyside Health and Care Partnership is underpinned by a clear governance structure</li> <li>Regular updates on partnership working provided in CEO's Report to BoD</li> </ul>		Comply