

Board of Directors (in Public)

Item 5.4

Subject: Annual Review of Board Directors' Disclosures
Date of meeting: Tuesday 9th April 2024
Presented by: Karan Wheatcroft, Director of Risk and Improvement
Purpose of Report: For Approval

BAF Ref	Impact on BAF
N/A	N/A

1. Executive Summary

The purpose of this paper is to request that the Board undertakes its annual evaluation of:

- Interests declared by Directors to determine any potential material conflicts;
- NED independence;
- Compliance with fit and proper persons regulation.

2. Annual Board Declaration Process

- i) The NHS Foundation Trust *Code of Governance* ('the Code') states that Boards should follow a policy of openness and transparency and make clear how conflicts of interests are dealt with. Board Directors are prompted to review their declarations of interests on an annual basis, and the Register of Interests is then updated and reviewed by the Board in March each year, to enable the identification and consideration of any potential conflicts. This process is supplemented by the inclusion of a standing agenda item on all Board meetings for 'Declaration of Interests' relating to items on the agenda. All Board Directors are required to declare any interests as soon as they arise in order that any potential conflicts can be mitigated. The Trust has a Policy on Managing Conflicts of Interest which is compliant with national guidelines. An electronic register developed by MES Declare is in place and enables web-based public accessibility to the Trust's Register of Interests via the LHCH website. The MES Declare system prompts line managers to review and acknowledge entries made by their direct reports to the Register of Interests.
- ii) The Board also has a responsibility to determine the independence of each Non-Executive Director aligned to the criteria for independence set out in the Code of Governance. The Board should determine whether each Director is independent in character and judgement and whether there are any relationships or circumstances which are likely to affect or could appear to affect the Director's judgement. Non-Executive Directors are asked on appointment to complete a self-declaration in respect of the independence criteria set out in the Code, for review by the Board and to support the required disclosure in the Annual Report. Non-Executive Directors are asked to complete a self-declaration annually and to highlight any new issues as these arise for the Board's consideration.
- iii) The Provider Licence requires that all Board Directors (and Governors) are 'fit and proper persons'. A Fit and Proper Person's Policy has been adopted by the Board

and is reviewed annually; this requires all existing Directors to complete an annual self-declaration. The policy was updated in September 2023 to reflect the new NHS England Fit and Proper Persons Framework.

- iv) In response to the above requirements, Board members have been asked to complete the following annual declarations for review by the Board:
- a) Interests (Register of Interests is attached at Appendix 1)
 - b) Independence (NEDs only- summary of declarations is attached at Appendix 2)
 - c) Fit and Proper Persons self-declaration (Summary at Appendix 3)

3. Exception Report

The following extracts are from provisions of the Code of Governance:

- *Serving more than six years could be relevant to the determination of a non-executive's independence.'*
- *The Board should determine whether the director is independent in character and judgment and whether there are relationships or circumstances which are likely to affect or could appear to affect the director's judgment.*

3.1 Independence of Julian Farmer, Non Executive Director

Julian Farmer was re-appointed by the Council of Governors for a further and final 18 month term until 31st May 2024. At this point he will have served on the Board of the Foundation Trust for 9 years. A review of Julian Farmer's independence and other criteria including the importance of continuity in light of other NED changes was undertaken by the Council of Governors to support his extended period of office. As part of this review it was agreed that the Senior Independent Director (SID) role be transferred from Julian Farmer to Bob Burgoyne.

The Board should confirm continued independence based on (but not limited to) the following points:

- No material conflicts of interest
- Clear boundaries maintained between professional and personal relationships
- New Chair and NEDs in post in 2023/24 which brings independence to the collective Board
- Transfer of SID role to a different NED
- No involvement at Operational Board meetings, Executive Team meetings or management forums
- Evidence of effective Board culture and constructive challenge (minutes and action logs; evaluation of meetings)

3.2 Independence of Nicholas Brooks, Non Executive Director

Nicholas Brooks was re-appointed by the Council of Governors for a third and final term to 10th June 2026. At this point he will have served on the Board of the Foundation Trust for 9 years. Nicholas's clinical background brings relevant and expert insight to the governance of LHCH, and as such compliments the skills and experience of his NED colleagues. A review of Nicholas Brooks independence and other criteria including the importance of continuity in light of other NED changes was undertaken by the Council of Governors to support his extended period of office.

The Board should confirm continued independence based on (but not limited to) the following points:

- No material conflicts of interest
- Clear boundaries maintained between professional and personal relationships
- New NEDs in post in 2023/24 which brings independence to the collective Board
- No involvement at Operational Board meetings, Executive Team meetings or management forums
- Evidence of effective Board culture and constructive challenge (minutes and action logs; evaluation of meetings)

4. Recommendations

The Board of Directors is asked to:

- i) Review the **Register of Interests** (Appendix 1) and consider any potential conflicts, confirming either that there are no material conflicts or else determining how any conflicts are to be dealt with.
- ii) Review the **self-declarations of NED independence** and determine the independence of each NED (Appendix 2), re-affirming that the criteria to demonstrate the ongoing independence continue to apply.
- iii) Review the **self-declarations in respect of the fit and proper persons test** and confirm that based on self-declarations.