

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST**MINUTES OF A VIRTUAL MEETING OF THE TRUST BOARD HELD ON THURSDAY 4 FEBRUARY 2021 AT 9AM****Voting Members present:**

Mr K Singh – Trust Chairman
 Ms V Bailey – Non-Executive Director and Quality and Outcomes Committee (QOC) Non-Executive Director Chair
 Professor P Baker – Non-Executive Director
 Ms R Brown – Acting Chief Executive
 Col (Ret'd) I Crowe – Non-Executive Director and People, Process and Performance Committee (PPPC) Non-Executive Director Chair
 Ms C Fox – Chief Nurse
 Mr A Furlong – Medical Director
 Mr A Johnson – Non-Executive Director and Finance and Investment Committee (FIC) Non-Executive Director Chair
 Mr S Lazarus – Chief Financial Officer
 Ms D Mitchell – Acting Chief Operating Officer
 Mr B Patel – Non-Executive Director and Charitable Funds Committee (CFC) Non-Executive Director Chair
 Mr M Williams – Non-Executive Director and Audit Committee Non-Executive Director Chair

In attendance:

Mr A Carruthers – Chief Information Officer
 Dr S Jones – Emergency Department Consultant (for Minute 40/21/1)
 Mr D Kerr – Director of Estates and Facilities
 Ms B Kotecha – Deputy Director of Learning and Organisational Development (for Minute 40/21/1)
 Ms H Kotecha – Leicester and Leicestershire Healthwatch Chair (up to and including Minute 43/21)
 Ms E Mayne – Grant Thornton (the Trust's External Auditor) (for Minute 41/21/2.1)
 Ms A Onyemah – Head of Equality, Diversity and Inclusion (for Minute 40/21/1)
 Mrs K Rayns – Corporate and Committee Services Officer
 Ms A Rothwell – Sister, Children's Emergency Department (for Minute 40/21/1)
 Mr M Stocks – Grant Thornton (the Trust's External Auditor) (for Minutes 36/21 to 41/21/2.1 inclusive)
 Mr S Ward – Director of Corporate and Legal Affairs
 Mr M Wightman – Director of Strategy and Communications
 Ms H Wyton – Chief People Officer

ACTION**36/21 APOLOGIES AND ANNOUNCEMENTS**

The Trust Chairman welcomed everyone to the meeting. Apologies for absence were received from Ms K Gillatt, Associate Non-Executive Director.

37/21 DECLARATIONS OF INTERESTS IN THE PUBLIC BUSINESS

Mr A Johnson, Non-Executive Director and the Chief Financial Officer declared their interests as Non-Executive Chair and Non-Executive Director of Trust Group Holdings Ltd (respectively). With the agreement of the Trust Board, these individuals remained present.

38/21 MINUTES

Paper A provided the Minutes of the public Trust Board meeting held on 7 January 2021. Ms V Bailey, Non-Executive Director requested an amendment to be made to item (c) of Minute 5/21/4 to clarify that the 'drop in' sessions were open to all maternity and neonatal staff.

CCSO

Resolved – that (subject to the above amendment) the Minutes of the 7 January 2021 virtual Trust Board meeting be confirmed as a correct record and signed by the Chairman accordingly.

CHAIRMAN**39/21 MATTERS ARISING FROM THE MINUTES**

Paper B provided a summary of the matters arising log from the 7 January 2021 Trust Board meeting

and any outstanding matters arising from previous meetings. There was no discussion on this report.

Resolved – that the Trust Board matters arising log be received as paper B.

40/21 KEY ISSUES FOR DISCUSSION/DECISION

40/21/1 Staff Story – LGBTQ+ Update (Staff Focus)

In presenting this month's staff story, the Chief People Officer re-iterated that the Trust Board received either a patient or a staff story each month on a rotational basis. As outlined in paper C, the Trust's Equality, Diversity and Inclusion (EDI) ambitions were detailed in the UHL People Plan and UHL Strategic Action Plan. Due to the disproportionate impact of Covid-19 upon people from ethnic minorities, much of the recent EDI work had tended to focus upon this area. However, work on the other protected equality characteristics had not stopped and this month's staff story now focused upon the arrangements for creating an inclusive workplace where all LGBTQ+ colleagues were accepted and supported without exception. Within the report, LGBTQ+ was defined as referring to Lesbian, Gay, Bisexual, Transgender, Queer + all identities regardless of how people defined themselves. Appendix 1 to paper C described the Rainbow Badge initiative which provided an opportunity for staff to promote the message that UHL offered open, non-judgemental and inclusive care for adults, children, young people and their families who identified as LGBTQ+ and appendix 2 set out the proposed Terms of Reference for UHL's LGBTQ+ Network (due to be launched later in 2021).

The Chief People Officer introduced Ms B Kotecha, Deputy Director of Learning and Organisational Development, Ms A Onyemah, Head of Equality, Diversity and Inclusion, Ms A Rothwell, Sister Children's Emergency Department and Dr S Jones, Emergency Department Consultant to present this item. Ms Rothwell began by describing her own sexuality as bisexual (having previously been married to a man and currently being in a relationship with a woman) and she highlighted some of the negative experiences, views and comments relating to LGBTQ+ staff and patients that she had encountered whilst at work, noting that such discrimination was not always obvious. She expressed surprise that an organisation as large and influential as UHL did not already have its own LGBTQ+ Network. The Rainbow Badge initiative had been launched as a pilot scheme in the Children's Hospital and the Emergency Department in October 2020, using external sponsorship funding and 170 pledges had been received with badges being issued. A multidisciplinary team of 15 volunteers continued to promote this project through workshops, presentations, newsletters and social media and the number of pledges was continuing to grow. A Trust wide launch of the Rainbow Badge initiative was planned following the launch of the LGBTQ+ Network. The launch of this Network (to be chaired by Ms Rothwell) had originally been planned for February 2021 to coincide with LGBTQ+ History Month, but this had been delayed due to operational pressures surrounding the Covid-19 pandemic. It was now proposed to launch the UHL LGBTQ+ Network in June 2021 to coincide with LGBT Pride Month.

The Deputy Director of Learning and Organisational Development highlighted the success of UHL's BAME Voice Network for Black, Asian and Minority Ethnic (BAME) staff and the Differently Able Voice Network for staff with disabilities. She particularly thanked the Acting Chief Executive who had agreed to become UHL's Trust Board Champion for the LGBTQ+ Network, advising that a separate session was planned to provide Trust Board members with an opportunity to engage in the Rainbow Badge campaign. Once launched, progress of the LGBTQ+ Network would be monitored through the Equality, Diversity and Inclusion Board which was chaired by the Acting Chief Executive.

In discussion on the staff story, the Trust Chairman highlighted the Trust's responsibility towards its workforce and the diverse community it served. Fairness and equity were integral components of the Trust's values and this presentation provided a good example of this. It was not acceptable behaviour for patients or staff not to be treated fairly and the Trust Board was absolutely committed to creating an inclusive culture at UHL. The Acting Chief Executive advised that she was proud to support UHL's LGBTQ+ Network and she looked forward to the development of this active Network at UHL. In summary, the Trust Chairman thanked all of the presenters for attending today's virtual Trust Board meeting, offering his own personal support with this important development and requesting to be issued with a Rainbow Badge himself. He also advised that he would welcome an invitation to a formal launch event for the UHL LGBTQ+ Network (once face-to-face meeting were able to be held once more).

Resolved – that (A) the staff story on UHL's Rainbow Badge initiative and the development of

the LGBTQ+ Network be received and noted, and

(B) consideration be given to scheduling a separate session for Trust Board members to engage in the Rainbow Badge campaign and sign-up to the Rainbow Badge Pledge (if appropriate).

CPO

40/21/2 Chairman's Monthly Report – February 2021

In presenting his monthly report at paper D, the Trust Chairman particularly drew the Trust Board's attention to the grim milestone of over 100,000 Covid-19 deaths nationally, the poignant media headlines relating to Captain Sir Tom Moore's death on 2 February 2021, and the sad fact that Leicester's Hospitals had lost over 1,000 patients to Covid-19 during the last year (including several much-valued members of UHL's own workforce). The Trust Board held a minute's silence to reflect upon these deaths.

Following the minute's silence, the Trust Chairman went on to emphasise his admiration and recognition of the critical role played by UHL's staff over the last ten months, noting the significant pressures and challenges they had faced, citing the example of staff members who had comforted patients in the final stages of their life, with no family members able to be present at the bedside. On behalf of the Trust Board, he recorded his gratitude to UHL's workforce for everything they had done and everything they continued to do in serving the Trust's patients and communities at this difficult time. The Trust Chairman also recognised the sustained commitment and motivation surrounding the Covid-19 Vaccination Programme, advising of a slight correction to his report, in that the proportion of UHL staff vaccinated to date stood at 65% and not 75% as previously stated. The most significant item on today's Trust Board agenda was the draft Minutes of the Audit Committee meeting held on 27 January 2021 and the Statutory Recommendations being made by the Trust's External Auditor (paper G1 and Minute 41/21/2.1 below refer to this item).

In terms of strengthening financial and governance experience within UHL's Trust Board, the Chairman advised of the recent appointment of Ms K Gillatt as an Associate Non-Executive Director. Ms Gillatt (who was a Chartered Accountant with extensive experience within the NHS, local government and Driving Standards Authority) had submitted her apologies for today's meeting, but she would be attending future Trust Board and Board Committee meetings in a non-voting capacity. One other Associate Non-Executive Director appointment was currently awaiting the final stage of the recruitment process and an announcement would be made once this stage had been completed. These appointments augmented the appointment of Mr M Williams, Non-Executive Director some five months earlier. Mr Williams (who was the Non-Executive Director Chair of the Audit Committee) was also a Chartered Accountant with extensive senior governance and financial experience. An introductory session for UHL's Board Development Programme had been scheduled for Thursday 11 February 2021 and the Director of Corporate and Legal Affairs would be contacting Trust Board members imminently to advise them of these arrangements. Finally, the Trust Chairman invited the Trust Board to ratify a proposal to appoint Col (Ret'd) I Crowe, Non-Executive Director and Mr B Patel, Non-Executive Director as members of the Finance and Investment Committee with immediate effect. This proposal was supported.

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In discussion on the Chairman's briefing, the Director of Strategy and Communications commented that it was appropriate for the Trust Board to acknowledge and reflect upon the grim milestones in terms of the national and local death statistics from Covid-19. However, he highlighted the fact that UHL had now treated and discharged almost 4,000 Covid-19 patients, demonstrating how hard the clinical teams had worked and how hard they had pushed the envelope surrounding the science and medical care for Covid-19 patients. Some of UHL's outcomes for Covid-19 recovery were considered to be 'best in class' and UHL had been nationally recognised for this work after the first wave of the pandemic, ranking in the top 3 Trusts nationally for Covid-19 patient outcomes. Whilst the Covid-19 patient death statistics were sad and each one was felt deeply, it was also important to recognise the brilliant work of UHL's clinical teams and celebrate the recovery of those patients who had been discharged. The Acting Chief Executive echoed these comments from the Director of Strategy and Communications. She also thanked the Trust Chairman for his work in strengthening the Trust Board's financial capability and capacity by appointing two Associate Non-Executive Directors.

Resolved – that (A) the Trust Chairman's monthly report for February 2021 be received and noted as paper D,

(B) the Director of Corporate and Legal Affairs be requested to contact Trust Board members

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(outside the meeting) to confirm the arrangements for the introductory session of UHL's Board Development Programme on 11 February 2021, and

(C) the proposal to appoint Col (Ret'd) I Crowe, Non-Executive Director and Mr B Patel, Non-Executive Director as members of the Finance and Investment Committee be approved for implementation with immediate effect.

DCLA

40/21/3 Acting Chief Executive Monthly Update – February 2021

The Acting Chief Executive introduced paper E, providing her monthly update on key issues. Taking the report as read, she drew members' attention to the letter provided at appendix 1, confirming the NHS England/Improvement position on regulatory and reporting requirements for all NHS Trusts and Foundation Trusts. January 2021 had been the most difficult month of the Covid-19 pandemic to date for UHL with a peak of 500 in-patients being treated for Covid-19 which was double the peak of the first wave in April 2020. This level of Covid-19 activity placed extreme pressure upon staff and in order to ensure that they were supported appropriately, additional wrap-around resources were being put in place through the Health and Wellbeing Team. Some staff were being redeployed to the most challenged areas of the Trust with eminent professors working as Health Care Assistants, doctors working as nurses and therapy staff working outside the scope of their usual roles. In addition to managing the workload of its own patients, UHL had been able to support Trusts in London and the greater Midlands in taking additional patients requiring the highest level of support within the ECMO and ITU services. In recognition of the impact upon the families of UHL staff, a letter had been issued to all families. The numbers of new Covid-19 admissions were finally starting to reduce, but the Trust was seeing continued growth in the ECMO and ITU services and this was expected to continue for the next two weeks.

Plans for the restoration and recovery of non-Covid-19 activity (including cancer services) had been badly affected by the second and third waves of Covid-19, although good recovery of the cancer position had been achieved over the summer months. It was hoped that the previous position for cancer services would be achieved again soon. The Covid-19 vaccination programme was a significant part of the response to the Covid-19 pandemic. The Leicester, Leicestershire and Rutland (LLR) System response to the vaccination programme had been fantastic and the LLR region was noted to be in the top quartile nationally. Colleagues from the armed forces had been working at UHL over the last three to four weeks and the cohort which would be leaving soon had provided positive feedback in respect of their induction process and the support they had been given. They had also recorded their admiration for UHL's substantive workforce noting that they had been working at this level for eleven months now.

The Medical Director briefed Trust Board members on the magnitude of operational pressures, explaining that UHL's first peak of Covid-19 in April 2020 had reached 206 inpatients, but this had risen to 500 patients in January 2021. ITU capacity had been increased by 180% with 80 patients requiring such care at the peak in January 2021. The winter season was always the most difficult time for the NHS with increased activity levels, but the Trust continued to manage this through clinically-led reviews, robust patient priority scores, and assessments of potential patient harm. Twice-weekly theatre prioritisation processes were taking place and capacity was being flexed to include the use of private sector providers and mutual aid (where necessary), taking into account appropriate clinical treatments as an alternative to surgery. The Quality and Outcomes Committee had reviewed capacity issues currently affecting Priority 2 cancer patients and it had been agreed to make onward referrals to the East Midlands Cancer Hub or regional networks where necessary, taking care to ensure that no patients were disadvantaged. This was not a situation unique to UHL as there was a national problem surrounding cancer capacity currently. In respect of the ongoing discussions to prepare for recovery and restoration of non-Covid-19 activity, UHL would harness the learning from the first wave.

The Acting Chief Operating Officer advised that the armed forces personnel were being retained for a while longer and would not be leaving at the end of this week as previously planned. She also noted the importance of allowing staff a short period of recovery before they launched into the plans for recovery and restoration of UHL's non-Covid-19 services. The Trust Chairman paid tribute to the resilience of UHL's workforce and the Chief People Officer commented upon the impact upon their working lives and their home lives, noting that it was crucial to ensure that UHL's Health and Wellbeing offering was appropriate and sufficient. This aspect was being monitored closely through the People, Process and Performance Committee.

The Trust Chairman highlighted that over 1,000 patients had been waiting longer than 52 weeks for their treatment and he noted the importance of dealing with this backlog effectively once the Covid-19 pandemic allowed. Professor P Baker, Non-Executive Director supported this, adding that cancer patients were the key priority which required regional and national plans to progress their treatment. Ms H Kotecha, Leicester and Leicestershire Healthwatch Chair commented that whilst most patients appreciated the strain that the NHS was under currently, they were also concerned about their own health and wellbeing. She reiterated the importance of keeping patients informed about any delays in their care in order to manage their expectations accordingly.

Resolved – that the Acting Chief Executive’s monthly report be received and noted as paper E.

41/21 ITEMS FOR ASSURANCE

41/21/1 Integrated Risk Report and 2020/21 Board Assurance Framework (BAF) Update

The Director of Corporate and Legal Affairs introduced paper F, providing the quarterly update in respect of progress within the risk control and assurance environment. Appendix 1 provided the latest iteration of the 2020/21 BAF and appendix 2 provided the organisational risk register report as at 31 December 2020. Noting that the report was self-explanatory, he highlighted the process for reviewing each of the Trust’s Principal Risks at the relevant Executive Board meeting as part of the Trust’s established BAF governance process. In addition, any new risks scoring 15 or above were presented to the next weekly Executive Board meeting (for confirm and challenge) and a comprehensive review of the risk register for each of the Clinical Management Groups was undertaken at their monthly performance review meetings. The Director of Corporate and Legal Affairs particularly drew members’ attention to the risk rating for Principal Risk 8 (relating to Covid-19 restoration and recovery of services) which had been increased from 16 to 20 to reflect the peak of the second and third waves of Covid-19 when compared to the first wave.

The Executive Strategy Board had reviewed Principal Risks 4, 6, 7 and 8 (relating to financial sustainability, estates critical infrastructure, estates reconfiguration and Covid-19 restoration and recovery respectively) at its meeting on 2 February 2021 and any changes arising from this review would be reported through the Executive Boards and incorporated into the next iteration of the BAF. The risks surrounding the Reconfiguration Programme would be reviewed at that afternoon’s meeting of the Reconfiguration Programme Trust Board. In addition, the Audit Committee provided additional assurance within the Trust’s risk management arrangements and a deep dive of Principal Risk 2 (relating to operational performance) was planned to be undertaken by the Audit Committee at its next meeting on 5 March 2021. At the request of the Trust Chairman, the Director of Corporate and Legal Affairs briefly outlined the five highest-scoring Principal Risks at UHL, noting that these were all currently rated as 20 (high risk) within paper F:-

- Principal Risk 2 – risk of failing to meet constitutional performance targets;
- Principal Risk 3 – risk of failing to provide adequate staffing capacity, skill mix and diversity amongst the workforce;
- Principal Risk 4 – risk of failing to create and maintain a financially sustainable model for the Trust as part of the wider healthcare system;
- Principal Risk 6 – risk of failure of the Trust’s critical estates infrastructure, and
- Principal Risk 8 – risk of inability to recover and restore clinical services and renew them in the light of the current pressures relating to the Covid-19 pandemic.

In summary, the Chairman reiterated that the Trust maintained a real-time perspective of the risk environment, confirming that the key risks were reviewed on a monthly basis by the Executive Team, with a weekly review of any emerging high risks. The Integrated Risk Report and the 2020/21 BAF were received and noted as detailed in paper F.

Resolved – that the Integrated Risk Report and 2020/21 BAF update be received and noted as paper F.

41/21/2 Reports from Virtual Board Committee Meetings

41/21/2.1 Audit Committee

Paper G1 provided the draft Minutes of the Audit Committee meeting held on 27 January 2021. The following documents were also appended to these Minutes: (1) External Audit Section 30 Referral to

the Secretary of State for Health; (2) Statutory Recommendations, and (3) UHL Response to the Statutory Recommendations. The Trust Chairman invited Mr M Williams, Non-Executive Director and Audit Committee Non-Executive Director Chair to make his opening comments, noting that Mr Williams had been appointed as a Non-Executive Director and Non-Executive Director Chair of the Audit Committee some five months previously (in September 2020). The Chairman advised that he would next welcome comments or questions from other Trust Board members and then provide an appropriate opportunity to Mr M Stocks and Ms E Mayne from Grant Thornton (the Trust's External Auditor) to make any additional comments.

Reporting verbally, the Audit Committee Non-Executive Director Chair provided a detailed account of the circumstances which had led to the current position where the Trust was unable to adopt a set of Statutory Accounts for the financial year 2019/20, nor approve an Annual Report or an Annual Governance Statement, nor hold an Annual Public Meeting, thereby being in breach of its statutory responsibilities. He highlighted the associated implications for the Department of Health and Social Care Accounts which had prompted adverse comments from the Comptroller and Auditor General and forced the External Auditor to make a Statutory Referral to the Secretary of State for Health and issue a set of Statutory Recommendations which required a formal response by the Trust Board. For some years, the Trust had been running at a financial deficit and this situation had been accepted by NHS England/Improvement (NHSE/I) and was reflected in the annual control totals which they had set for the Trust. The financial year 2018/19 had been particularly challenging and by the third quarter of that year, it had become clear that the Trust was not likely to meet its control total and the former Chief Financial Officer and the former Chief Executive had negotiated a revised financial target reflecting an increased deficit with NHSE/I which the Board had agreed. This had presumably weighed heavily in the minds of the former Chief Financial Officer and the former Chief Executive as the 2018/19 Annual Accounts were prepared. In the event, these 2018/19 Accounts had reflected a deficit in line with the revised control total and they were signed-off by the Audit Committee and the Trust Board as presenting a true and fair view. Whilst the External Auditor had provided an unqualified opinion on those accounts, he had drawn attention to a number of issues which (although they were below the threshold of materiality) were felt to be significant and required correcting in the accounts. The External Auditor had also raised a number of concerns about accounting practices and procedures and these were set out in the Audit Findings Report when it was presented to the Audit Committee in May 2019 and re-iterated in subsequent comments from the External Auditor to the Audit Committee.

The Audit Committee Non-Executive Director Chair advised that the unadjusted errors from 2018/19 had inevitably created adverse implications for the Trust's deficit in 2019/20 and the Trust's ability to meet its control total for 2019/20. The External Auditor's assertion was that the key driver for not making the adjustments appeared to be "the maintenance of the reported position as agreed with the Trust's Regulator". This theme recurred in the External Auditor Statutory Recommendations and the Comptroller and Auditor General's comments on the Department of Health Accounts. Following formal approval of the 2018/19 Annual Accounts, the former Chief Financial Officer was requested on at least two formal occasions to report to the Audit Committee on the issues raised by the External Auditor, but he did not act in the way that he should have, or as quickly as he should have, and the former Chief Financial Officer had subsequently left the Trust for another job in October 2019.

The former Non-Executive Director Chair of the Audit Committee and the Trust Chairman had raised serious concerns with the former Chief Executive and he (in turn) had requested Mr S Lazarus, Interim Chief Financial Officer to undertake a review. In addition to the unadjusted items which had been identified by the External Auditor, the Interim Chief Financial Officer had also discovered a number of accounting and related issues which would have significantly increased the reported deficit (from £55m to approximately £101m), had they been included in the 2018/19 Annual Accounts. These issues did not emerge until fairly late within the 2019/20 financial year which meant that they were not reflected in the regular financial reporting to the Finance and Investment Committee or the Trust Board. The Interim Chief Financial Officer and his staff had set about producing the 2019/20 Accounts as best as they were able to on the basis of the 2018/19 prior year adjustments, what was contained in the ledgers and financial systems and what had emerged from the recent investigation and these 2019/20 Accounts were presented for External Audit. During the audit process, the External Auditor identified a significant number of required changes (most of which were enacted), but an emerging picture of material uncertainty had developed surrounding the accuracy of the accounts, inappropriate accounting treatment and significant weaknesses in the control environment. Consequently, neither the Chief Financial Officer nor the Non-Executive Director Chair of the Audit Committee had been able to recommend the 2019/20 Annual Accounts to the Trust Board for formal approval. Furthermore, in the event of these Accounts being presented for Trust Board approval, the

External Auditor had planned to issue a Disclaimer Opinion, meaning that he was unable to form an opinion on the fairness of the financial statements as a whole. It was noted that a Disclaimer Opinion was virtually unheard of in the public sector.

The Audit Committee Non-Executive Director Chair summarised the impact of UHL's failure to sign-off a set of 2019/20 Accounts, noting that:-

- (i) the Trust was in breach of its statutory obligations to approve and submit a set of Statutory Accounts to the Secretary of State for Health, to hold an Annual Public Meeting, and to approve an Annual Governance Statement;
- (ii) there had been serious implications for NHSE/I (at both a regional and a national level) and for the Department of Health and Social Care Accounts, which formed part of the Whole of Government Accounts, and
- (iii) the External Auditor had been obliged to take action in accordance with his statutory responsibilities, leading to the External Auditor making a Statutory Referral to the Secretary of State under Section 30 of the Local Audit and Accountability Act 2014 (appendix 1 to paper G1 refers) and issuing a number of Statutory Recommendations in accordance with Section 24 of the Act (as set out in appendix 2 to paper G1). Appendix 3 to paper G1 provided the Trust's response to the Statutory Recommendations.

In the opinion of the Audit Committee Non-Executive Director Chair, three fundamental problems had existed within UHL's finance function: (a) a structure which was not fit for purpose, lack of capacity and gaps in the capability of the finance team; (b) a lack of robust financial systems, controls and procedures, and (c) a failure to follow correct accounting policies and practices – leading to an accounting culture more concerned with producing a set of accounts which achieved a required outcome rather than an accurate reflection of the transactions into which the Trust had entered. The External Auditor had criticised the Trust Board for failing to challenge the actions of management, noting that “invariably the Trust Board and Audit Committee had accepted the views of management rather than taking a more balanced and prudent approach”, otherwise interpreted as saying that the Board had relied too much on the advice of the former Chief Financial Officer and the former Chief Executive. Whilst financial stewardship was clearly one of the key responsibilities of the Audit Committee and the unitary Board, the Trust Board was nevertheless entitled to expect a level of expertise, competence and professional standards from the finance function upon which it could rely, particularly when it came to complex accounting matters and it was a matter of regret that the Trust Board now found itself in a position where this was not the case.

Arising from what was still an incomplete audit of the draft 2019/20 Accounts, the External Auditor had identified a number of areas where there were significant control issues, eg the control of journals, use of an unauthorised invoice register, control accounts not regularly reconciled, and changes in accounting policy not approved by the Audit Committee. Recommendations arising from the External Audit review of the 2018/19 Accounts had not been fully addressed, and these included some issues which had been identified again in the 2019/20 Accounts. The Audit Committee had recently reviewed these issues in detail and was assured that they were included in the action plan linked to the Financial Governance Improvement Plan, which was considered by the Trust Board on a monthly basis. Whilst it was noted that there was more work to be done, progress was being made with the journal control procedures and the unauthorised invoice register was now properly managed. Clear plans were in place to present changes in accounting policy for Audit Committee approval and a review of Standing Orders, Standing Financial Instructions, and the Scheme of Delegation was planned. New appointments had been made to cover key roles in the Finance Department which would be further strengthened by a restructuring to ensure that the right level of capacity and capability was achieved on a permanent basis. In addition, intensive support was being provided by the Financial Improvement Director and his colleagues.

The Audit Committee had received proposals for the completion of the 2019/20 Accounts and the support that was required and it was hoped that these Accounts would be ready by late Spring 2021. The Trust would not be able to meet the statutory deadline for completion of the 2020/21 Accounts, but the plan was for them to be completed by the end of June 2021 for submission by 31 August 2021, with the aim of doing everything possible to avoid further problems for the Department of Health Accounts for 2020/21. Finally, the Audit Committee Non-Executive Director Chair read out the formal recommendations which required the Trust Board's approval at today's meeting:-

- (1) the Trust Board should formally and publicly recognise that it was in breach of its Statutory Responsibilities because it had not produced a set of Accounts for 2019/20, nor approved an

- Annual Report, or Annual Governance Statement, nor held an Annual Public Meeting in accordance with statutory deadlines, and
- (2) the Trust Board should approve the External Auditor's Statutory Recommendations and the Trust's responses, as recommended by the Audit Committee.

In discussion on this item, the following comments were noted:-

- (a) Mr A Johnson, Non-Executive Director and Non-Executive Director Chair of the Finance and Investment Committee (FIC) recorded his support of the External Auditor's findings and conclusions, which were consistent with the findings of Mr S Lazarus, Chief Financial Officer. Since Mr Lazarus had commenced in post (initially as Interim Chief Financial Officer, and latterly as the substantive Chief Financial Officer) there had been tangible improvements in financial leadership, financial reporting and a more prudent approach had been adopted. Mr Johnson advised that since March 2020, FIC had been focusing upon the following two key issues to enable an effective recovery from the position that UHL had found itself in: firstly ensuring that the finance function had the correct amount of appropriately qualified resource with the necessary skills and experience to regain and sustain the desired level of financial control. This had included a particular focus on both management of the Balance Sheet and internal financial controls and he was pleased to confirm that considerable progress had been made in these areas over the last few months, successfully recruiting experienced personnel which had resulted in significant advances in the processes, procedures and controls that are necessary. Secondly, FIC had focused on improving financial governance, assurance, and accountability. FIC's governance arrangements had been strengthened: the agenda was being actively managed to ensure focus on the relevant priorities; there was effective follow-up of all actions raised which provided the necessary assurance that the monthly financial results, financial forecasts and targets were interrogated so as to provide the necessary standard of assurance that financial schedules gave an accurate and fair view of their respective objectives; and that (if this was not found to be the case) actions were raised which provided the necessary assurance. In parallel, there had been a focus on developing the financial governance capability of the Trust, so that processes and procedures were fit for purpose. Finally, Mr Johnson expressed his thanks to NHSE/I for their targeted support to UHL and its finance function through the Financial Special Measures process that the Trust was now undergoing. Through this process, he was confident that UHL would emerge stronger and fit for purpose from a financial viewpoint;
- (b) the Acting Chief Executive commended the quality of the support provided to the Trust by NHSE/I under the Financial Special Measures regime, which was greatly helping the Trust to manage this difficult and challenging journey. Whilst the unwelcome decision not to adopt the 2019/20 Accounts was painful, it was necessary and she was very grateful for the support of the External Auditor, Mr M Stocks, in helping the Trust to reach an agreed position in the not too distant future. She recognised the many hundreds of hours of work already undertaken by the External Auditor and the finance team and the additional work that was still required. The last year had demonstrated that in the face of seeming insurmountable challenges, the Trust had been able to find a way to navigate through everything the Covid-19 pandemic had thrown it: surges in Covid-19 activity; shortages of personal protective equipment (PPE); surges in demand for Intensive Therapy Unit (ITU) care; supporting other Trusts whose ITU provision was under pressure; staff sickness levels, workforce shortages and now the Trust was racing to deliver an ambitious Covid-19 vaccination programme. She was confident that the Trust would be able to use the same energy to manage the next phase of restoration and recovery of services and to sustain the financial improvements, expressing her confidence in the Chief Financial Officer and the excellent work of the Executive Team which would help the Trust to manage all of the challenges to enable the appropriate records to be signed-off by the Trust Board and delivered to the NHSE/I team in accordance with the previously advised timescale;
- (c) the Chief Financial Officer began by thanking both his Trust Board colleagues and the External Auditors for their unwavering support. He noted that the task of re-stating the Trust's accounts, strengthening the finance team and putting effective financial controls in place had involved a huge amount of hard work and a great deal of progress had already been made. Consequently, the team was much stronger now and the most serious control weaknesses had been rectified. Whilst there was still more work to do, the financial governance improvements were already proving effective. Reporting of the Trust's financial performance had been significantly enhanced to ensure that it was sufficiently clear and detailed. The Trust was also on course to breakeven this financial year and was working closely with system colleagues to ensure that UHL could sustain its improved financial performance into the future. It had been an extremely difficult

period but he was confident that a successful outcome could be achieved;

- (d) speaking on behalf of both himself and the Chief Nurse, the Medical Director absolutely acknowledged and accepted that the Trust found itself in a serious position in not being able to sign off its 2019/20 annual accounts for the reasons highlighted already; and that they, working alongside other members of the Board, would need to continue to focus on actions to improve UHL's financial governance and finance function. However, they wished to assure the Trust Board that through UHL's quality governance structures, they would continue to maintain a similar focus on patient safety, clinical outcomes and patient experience. The NHS was facing unprecedented pressures at the moment and was providing care in extraordinary times – as such, it was worth reminding the Board and members of the public that UHL was one of four Trusts identified by the Getting it Right First Time (GiRFT) Programme as having performed particularly well in terms of patient outcomes during the first wave of the COVID pandemic in 2020. UHL had contributed to the best practice document which GiRFT had now published. He provided assurance that UHL's staff continued to go above and beyond on a daily basis to deliver high quality care within Leicester's hospitals, and
- (e) Mr M Stocks, External Auditor acknowledged that the last year had been a difficult time for the Trust, suggesting that managing the Covid-19 pandemic as well as dealing with such urgent financial and governance issues would stretch any finance team. He particularly thanked the Non-Executive Director Audit Committee Chair, and the Chief Financial Officer and his team for their openness and support in getting to the heart of the financial and governance issues at UHL. The nature of these issues were a significant concern and whilst it was very rare for him to resort to utilising the Statutory Recommendations mechanism, he felt that it had been entirely warranted in this situation. He was particularly concerned that the Trust had been in financial deficit for some seven years and the cumulative deficit as at the end of March 2020 was estimated to be in the region of £328m. Whilst this debt was gone now, he remained concerned that following the Covid-19 pandemic when the Trust was operating in a more normal funding environment, it might return to a financial deficit position without additional financial support. He highlighted the need for urgent actions to be undertaken with partners in the Leicester, Leicestershire and Rutland (LLR) healthcare economy and with NHSE/I to prevent a similar position occurring again. This would allow the Trust to move towards a balanced position by operating in a more normalised way. The financial pressures had impacted upon the governance culture of the Trust, leading to the Trust using accounting practices to deliver the control total, rather than focusing on accurate financial reporting. These practices, combined with the issues highlighted by the Non-Executive Director Audit Committee Chair, lack of financial controls and under-investment in the finance team had led to errors in the 2017/18, 2018/19 and particularly the 2019/20 financial statements, leading to the position today where the Trust Board was not able to adopt the 2019/20 Accounts. Finally, Mr Stocks advised that he was satisfied that the financial culture and governance was changing at UHL and that the practices and processes were more closely aligned with his expectations for a public sector body. He felt that the Trust's response to the Statutory Recommendations was positive and that the changes being made were starting to impact in terms of the in-year financial reporting. He was hopeful for the future that the Trust would be able to resolve these issues and move to a more positive position with the support that was being provided.

In summarising this discussion, the Trust Chairman recorded his thanks to Mr M Williams, Non-Executive Director Audit Committee Chair for his full and public explanation of the background to the identified issues, also acknowledging the contributions made by other Trust Board members and those of the External Auditor, Mr M Stocks in his reports and recommendations. He provided clarity that this Trust Board collectively took full responsibility for the failures in financial performance, controls and governance as identified by the External Auditor in his reports and recommendations. The Trust Board was taking this matter very seriously and had noted the Auditor General references to "accounting judgements and manual intervention associated with the previous leadership regime". He confirmed that the responsibility for addressing these issues was with himself and his Trust Board colleagues.

The Trust Board was not prepared to adopt the 2019/20 Accounts because they did not reflect a true and fair record despite the exhaustive efforts made by the External Auditor. As the Board for a major public body, UHL's Trust Board had a responsibility to show that the Trust could operate with effective governance and control. He confirmed that the Board's job was to get to the bottom of this and to be unflinching in its determination to correct what had happened previously and to put in place measures to make sure it could not happen again. A number of actions had been taken already, with others

either pending or currently being implemented. These actions were designed to address the issues identified in the reports from the External Auditor whilst ensuring stability and continuity at a time of unprecedented operational pressure for the organisation because of the pandemic. The Trust had appointed a new substantive Chief Financial Officer and his leadership was already demonstrating transparency, clarity and prudence in financial matters. The Trust would resume the paused recruitment process for a substantive new Chief Executive once the current pandemic pressures had eased. The Trust had appointed one new Non-Executive Director (Mr M Williams) and two Associate Non-Executive Directors to the Board, all of whom had senior finance and governance experience. The Board was about to commence an intensive development programme focusing on strengthening its governance processes. It was crucial now for the entire Trust to focus on becoming financially sustainable through the transformation of services whilst keeping the quality and safety of clinical services at the forefront of minds. UHL's responsibility was to work with local partners and provide outstanding health services to its patients and diverse communities. They had always, and would continue to be, at the centre of our concerns. He also noted the need to remember the Trust's responsibility to deliver outstanding value for money to the taxpayers who funded those services. The continued professionalism and commitment of UHL's staff, which had been so evident during the pandemic, would be essential to deliver this. The Trust Chairman recorded his appreciation of the ongoing assistance and support being provided by NHSE/I to strengthen the finance team and the £450 million funding commitment that had been made to transform UHL's services and estate. Finally, he invited the Trust Board to adopt the following recommendations arising from the Audit Committee meeting held on 27 January 2021 as referenced earlier by the Audit Committee Non-Executive Director Chair:-

- (1) this Trust Board formally and publicly recognised that it was in breach of its statutory responsibilities because it had not produced a set of Accounts for 2019/20, nor approved an Annual Report or Annual Governance Statement, nor held an Annual Public Meeting in accordance with statutory deadlines, and
- (2) the Trust Board formally accepted the External Auditor's Statutory Recommendations, together with the proposed responses to the Statutory Recommendations, as set out in paper G1 and as recommended by the Audit Committee for Trust Board approval today.

Both recommendations were formally approved and the External Auditors left the virtual meeting at this point.

Resolved – that (A) the summary of public issues discussed at the 27 January 2021 QOC meeting be received and noted as paper G2,

(B) the Trust Board formally recognises that the Trust was in breach of its statutory responsibilities and approved the following documents (which were appended to paper G1):-

**AC NED
CHAIR**

- (1) External Audit Section 30 Referral to the Secretary of State for Health;
- (2) Statutory Recommendations;
- (3) UHL Response to the Statutory Recommendations;

(C) the Trust Board approve the following recommendations arising from the Audit Committee meeting held on 27 January 2021:-

**AC NED
CHAIR**

- (1) Update on the Plans/Timetable to Revise and Re-Audit the 2019/20 Accounts (Minute 1/21/5 refers), and
- (2) Update on the Plans/Timetable for Preparation of the 2020/21 Accounts and External Audit (Minute 1/21/6 refers).

41/21/2.2 Quality and Outcomes Committee (QOC)

Paper G2 summarised the issues covered during the virtual QOC meeting held on 28 January 2021. The QOC Non-Executive Director Deputy Chair took the paper as read, thanking the Medical Director for outlining the Trust's quality governance process during the discussion on the previous agenda item. She drew members' attention to the Committee's consideration of staffing resources, particularly in light of recent staff redeployment as part of the Trust's response to the Covid-19 pandemic. QOC had also received detailed updates on the Covid-19 response (noting that there were no supply issues in respect of PPE but this was being monitored closely), and the development of the Integrated Quality Assurance System. Noting a comment that the Leicester and Leicestershire Healthwatch Chair had raised earlier under Minute 40/21/3 about keeping patients informed of delays

in their treatment plans, the QOC Non-Executive Director Chair commented that reviews of any physical patient harm were undertaken to assess the impact of delayed treatment, but it was also important not to underestimate the psychological impact upon patients. There were no items recommended for Trust Board approval.

Resolved – that the summary of public issues discussed at the 28 January 2021 QOC meeting be received and noted as paper G2.

41/21/2.3 People, Process and Performance Committee (PPPC)

Paper G3 summarised the issues covered during the virtual PPPC meeting held on 28 January 2021. The PPPC Non-Executive Director Deputy Chair advised that comprehensive briefing reports had been presented to the Committee in respect of quality and performance, information management and technology, and workforce. There were no items recommended for Trust Board approval.

Resolved – that the summary of public issues discussed at the 28 January 2021 PPPC meeting be received and noted as paper G3.

41/21/2.4 Finance and Investment Committee (FIC)

The FIC Non-Executive Director Chair introduced paper G4, providing a summary of the issues covered during the virtual FIC meeting held on 28 January 2021. He highlighted the review of contract management arrangements, progress of the Transformation and Cost Improvement Programme, the monthly update on the Financial Governance Improvement Plan (FGIP) and the arrangements for strengthening the finance team. In respect of progress with the FGIP and restructuring the finance team, he noted that improvements were already being evidenced and a new format monthly financial performance report had been implemented (paper G5 and Minute 41/21/2.5 below refers). This new format report was more informative and enabled the reader to trace through the data. Noting that this FIC meeting had been inquorate, he invited the Trust Board to endorse all of the decisions and recommendations arising from this meeting.

Resolved – that (A) the summary of public issues discussed at the 28 January 2021 FIC meeting be received and noted as paper G3, and

(B) all decisions and recommendations arising from the inquorate FIC meeting held on 28 January 2021 be approved.

FIC
NED
CHAIR

41/21/2.5 2020/21 Month 9 Financial Position

The Chief Financial Officer introduced paper G5, providing the monthly financial performance report presented in a new format which had been implemented for Month 9 (December 2020). He explained that the high-level data was provided towards the front of the report, with the detailed appendices being provided at the end for those who wished to drill down further into the reported data. The Trust was reporting a year-to-date income and expenditure surplus of £17.8m, which was favourable to plan by £28.6m and £7m favourable to forecast. The main driver for this position was that (sadly) the Trust had been unable to treat as many non-Covid patients as planned due to the third wave of the pandemic, reflecting lower than planned expenditure on restoration and recovery of services. Appendix 7 of paper G5 detailed the clinical activity and associated income streams. All points of clinical care delivery were under-performing against plan due to Covid-19 resulting in an underlying surplus of approximately £7m for each of the last two months. Some of the surplus was also due to improvements in financial performance. The Chief Financial Officer thanked the Director of Financial Improvement for his input in designing the new financial performance report, noting that early feedback had confirmed that it had increased members' ability to challenge the data and gain assurance where required. The Trust Chairman supported this point, noting the improved transparency it provided.

Resolved – that the month 9 financial performance report be received and noted (as paper G5).

42/21 **ITEMS FOR NOTING**

42/21/1.1 Quarterly Sealings Report – 1 October 2020 to 31 December 2020

Resolved – that the Quarterly Sealings Report be received and noted as paper H.

42/21/2 Minutes of the Virtual Board Committee Meetings – December 2020

42/21/2.1 Quality and Outcomes Committee (QOC)

Resolved – that the public Minutes of the 17 December 2020 QOC meeting be received and noted as per paper I1.

42/21/2.2 People, Process and Performance Committee (PPPC)

Resolved – that the public Minutes of the 17 December 2020 PPPC meeting be received and noted as per paper I2.

42/21/2.3 Finance and Investment Committee (FIC)

Resolved – that the public Minutes of the 17 December 2020 FIC meeting be received and noted as per paper I3.

43/21 QUESTIONS AND COMMENTS FROM THE PRESS AND PUBLIC RELATING TO BUSINESS TRANSACTED AT THIS MEETING

Resolved – that no questions or comments were raised on the business transacted at this meeting.

44/21 EXCLUSION OF THE PRESS AND PUBLIC

Resolved – that, pursuant to the Public Bodies (Admission to Meetings) Act 1960, the press and members of the public be excluded during consideration of the following items of business (Minutes 45/21 to 53/21), having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest.

45/21 DECLARATIONS OF INTERESTS IN THE CONFIDENTIAL BUSINESS

Mr A Johnson, Non-Executive Director, and the Chief Financial Officer declared their interests as Non-Executive Chair and Non-Executive Director of Trust Group Holdings Ltd (respectively). With the agreement of the Trust Board, they remained present.

46/21 CONFIDENTIAL MINUTES

Resolved – that the confidential Minutes of the virtual Trust Board meeting held on 7 January 2021 (paper J) be confirmed as a correct record and signed by the Chairman accordingly.

Chair
man

47/21 CONFIDENTIAL MATTERS ARISING REPORT

Resolved – that this Minute be classed as confidential and taken in private accordingly, on the grounds that public consideration at this stage could be prejudicial to the effective conduct of public affairs.

48/21 KEY ISSUES FOR DISCUSSION/DECISION

48/21/1 Confidential Report from the Director of Financial Improvement

Resolved – that this Minute be classed as confidential and taken in private accordingly, on the grounds that public consideration at this stage could be prejudicial to the effective conduct of public affairs.

49/21 ITEMS FOR ASSURANCE

49/21/1 Reports from Board Committees

49/21/1.1 Audit Committee

Resolved – that this Minute be classed as confidential and taken in private accordingly, on the

grounds that public consideration at this stage could be prejudicial to the effective conduct of public affairs.

49/21/1.2 Finance and Investment Committee (FIC)

Resolved – that this Minute be classed as confidential and taken in private accordingly, on the grounds that public consideration at this stage could be prejudicial to the effective conduct of public affairs.

50/21 **REPORTS FROM EXECUTIVE GROUPS**

50/21/1 Executive Strategy Board (ESB)

Resolved – that the action notes arising from the ESB meetings held on 5 January 2020 be received and noted as paper N.

51/21 **ANY OTHER BUSINESS**

Resolved – that there were no items of any other business.

52/21 **DATE OF NEXT TRUST BOARD MEETING**

Resolved – that the next Trust Board virtual meeting be held on Thursday 4 March 2021 from 9am.

53/21 **CONFIDENTIAL REPORT BY THE DIRECTOR OF CORPORATE AND LEGAL AFFAIRS**

Resolved – that this Minute be classed as confidential and taken in private accordingly, on the grounds that public consideration at this stage could be prejudicial to the effective conduct of public affairs.

The meeting closed at 17.57pm

Kate Rayns, Corporate and Committee Services Officer

Cumulative Record of Attendance (2020/21 to date):

Voting Members:

Name	Possible	Actual	% attendance	Name	Possible	Actual	% attendance
K Singh	18	18	100	K Jenkins (until 27.7.20)	3	2	67
J Adler (until 18.9.20)	7	0	0	A Johnson	18	18	100
V Bailey	18	17	95	S Lazarus	18	14	78
P Baker	18	18	100	D Mitchell	18	14	78
R Brown	18	17	95	B Patel	18	18	100
I Crowe	18	18	100	M Traynor (until 25.1.21)	17	15	82
C Fox	18	12	67	M Williams (from 2.9.20)	13	13	100
A Furlong	18	17	95				

Non-Voting Members:

Name	Possible	Actual	% attendance	Name	Possible	Actual	% attendance
A Carruthers	18	17	95	V Karavadra (until 31.12.20)	15	11	73
K Gillatt (from 27.1.21)	1	0	0	S Ward	18	18	100
D Kerr	18	18	100	M Wightman	18	18	100
H Kotecha	15	14	93	H Wyton	18	17	95