

Trust Board paper G1

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

REPORT BY TRUST BOARD COMMITTEE TO TRUST BOARD

DATE OF TRUST BOARD MEETING: 4 February 2021

COMMITTEE: Audit Committee

CHAIR: Mr M Williams, Non-Executive Director and Audit Committee Chair

DATE OF COMMITTEE MEETING: 27 January 2021

RECOMMENDATIONS MADE BY THE COMMITTEE FOR CONSIDERATION BY THE PUBLIC TRUST BOARD:

- **External Audit Section 30 Referral to the Secretary of State for Health (Minute 1/21/1) – *report appended to these Minutes***
- **Draft Statutory Recommendations (Minute 1/21/2) – *finalised report appended to these Minutes***
- **UHL Response to Draft Statutory Recommendations (Minute 1/21/3) – *finalised response appended to these Minutes***
- **Update on Plans/Timetable to Revise and Re-Audit the 2019/20 Accounts (Minute 1/21/5)**
- **Update on Plans/Timetable for Preparation of the 2020/21 Accounts and External Audit (Minute 1/21/6)**

OTHER KEY ISSUES IDENTIFIED BY THE COMMITTEE FOR NOTING BY THE PUBLIC TRUST BOARD:

- **None**

DATE OF NEXT COMMITTEE MEETING: 5 March 2021

**Mr M Williams
Non-Executive Director and Audit Committee Chair**

UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST

MINUTES OF AN AUDIT COMMITTEE MEETING HELD ON WEDNESDAY 27 JANUARY 2021 AT 1.30PM

(held virtually via Microsoft Teams)

- Present:** Mr M Williams – Non-Executive Director (Chair)
Ms V Bailey – Non-Executive Director, and Chair of the Quality and Outcomes Committee
Col (Ret'd) I Crowe – Non-Executive Director, and Chair of the People, Process and Performance Committee
Mr A Johnson – Non-Executive Director, and Chair of the Finance and Investment Committee (excluding Minute 3/21/2 [part])
- In Attendance:** Ms A Breadon – PwC (the Trust's Internal Auditor) (excluding Minutes 2/21, 3/21, and 13/21)
Mr M Brice - Deputy Financial Improvement Director (excluding Minute 3/21)
Mrs R Brown – Acting Chief Executive (for Minute 3/21/1)
Ms A Clarke – Local Counter-Fraud Specialist, PwC (excluding Minutes 2/21, 3/21, and 13/21)
Mr R Cooper – Financial Improvement Director (excluding Minute 3/21)
Mr S Lazarus – Chief Financial Officer (excluding Minute 3/21)
Mr S Linthwaite – Deputy Director of Finance (Financial Services) (excluding Minute 3/21)
Ms E Mayne – Grant Thornton (the Trust's External Auditor) (excluding Minutes 2/21, 3/21, and 13/21)
Mr M Stocks – Grant Thornton (the Trust's External Auditor) (excluding Minutes 2/21, 3/21, and 13/21)
Ms H Stokes – Corporate and Committee Services Manager
Mr S Ward - Director of Corporate and Legal Affairs
Ms C Wood - PwC (the Trust's Internal Auditor) (excluding Minutes 2/21, 3/21, and 13/21)
Mrs H Wyton – Chief People Officer (for Minute 3/21/1)

RECOMMENDED ITEMS

ACTION

1/21 2019/20 ANNUAL ACCOUNTS AND RELATED ISSUES

1/21/1 External Audit Section 30 Referral to the Secretary of State for Health

Paper C comprised External Audit's referral of UHL to the Secretary of State for Health under section 30 of the Local Audit and Accountability Act 2014, which had been issued to the Secretary of State for Health before Christmas 2020. The referral related to failures in the Trust's duty to break even, and in the Trust's duty to issue financial statements and an annual report 2019/20. The Audit Committee Non-Executive Director Chair noted this report, which would also be submitted to the public Trust Board on 4 February 2021.

Recommended – that the External Audit Section 30 Referral to the Secretary of State for Health be received, and appended to these Minutes for discussion at the public session of the 4 February 2021 Trust Board.

**AC NED
CHAIR**

1/21/2 Draft Statutory Recommendations

Mr M Stocks, External Audit, presented his Statutory Recommendations draft report at paper D, which would be finalised and issued formally on 29 January 2021. The report would be presented to the public session of the 4 February 2021 Trust Board. These Statutory Recommendations were being made under section 24 of the Local Audit and Accountability Act 2014 (Schedule 7) due to issues with regard to the Trust's financial reporting, governance, and financial sustainability. In presenting his report, Mr M Stocks External Audit noted in particular:-

**AC NED
CHAIR**

- (1) that his concerns re: financial reporting had been discussed in detail at the 2 December 2020 Audit Committee. He considered that the Trust's response on these points (Minute 1/21/3 below refers) was appropriate, but he noted that action was needed in some areas to avoid future errors. He reported his feedback from UHL finance staff that they had felt

- under-pressure and under-resourced, and he noted his view that they had been aware of the concerns flagged by External Audit during the 2018/19 annual accounts audit and had been directed to continue reporting in the same way as before;
- (2) that governance issues had also been discussed in detail at the 2 December 2020 Audit Committee. Mr M Stocks External Audit emphasised the crucial importance of an appropriate financial tone and leadership within the Trust, and considered that the required delivery of the Control Total had become the pre-eminent focus. He considered that change had begun to address the cultural issues at UHL and the previous lack of Trust Board/Board Committee challenge of management, but that it remained early days;
 - (3) his urging of UHL to engage with Commissioners and Regulators to address UHL's longterm financial position and reach financial sustainability, as detailed in the 2019/20 draft Audit Findings Report, and
 - (4) his view that financial accounting, governance and ethics training was required for the finance team.

In discussion on the draft Statutory Recommendations report, the Audit Committee noted:-

- (a) a query from the Audit Committee Non-Executive Director Chair as to whether the Audit Committee needed to be specifically sighted to any issues arising from Mr M Stocks' interviews with UHL staff. In response, Mr M Stocks noted his wish to re-review the interviews (the final one of which would be held on 1 February 2021) and advised the Audit Committee that staff had been open and transparent with him about the perceived culture of the department and the pressure felt to continue with incorrect practices. Ms V Bailey Non-Executive Director considered that there was an important distinction between capability and capacity issues arising from overwork and those relating to innate ability; although this was echoed by Mr M Stocks External Audit, he considered that the general team skillset was appropriate, with capability issues relating primarily to direction and capacity. The Audit Committee Non-Executive Director Chair queried whether there were any in-house training issues;
- (b) a query from Col (Ret'd) I Crowe Non-Executive Director as to what further action UHL could take to break even in future, in addition to the numerous actions put in place through the Financial Special Measures programme. In response, Mr M Stocks External Audit considered that this was not an objective UHL could deliver in isolation; he reminded Audit Committee members that the Trust had declared deficits each year since 2013/14 and he noted his view that UHL's underlying structural deficit could not be addressed through efficiencies alone as it required a correction of the fundamental underfunding of the Trust. It was crucial, therefore, that UHL worked with Commissioners and Regulators to agree a strategy which would return the Trust to a longterm sustainable financial position. Mr A Johnson Non-Executive Director voiced significant concern that the LLR system was being asked to deliver further savings in the next financial year thus placing the Trust under further additional pressure, and he also voiced his concern that the underlying need for more funding was not being addressed (as recommended by External Audit), and
- (c) comments from the Audit Committee Non-Executive Director Chair on the expectations made clear to all NHS Trusts re: meeting their Control Totals. He considered that it was clear that meeting its Control Total had been prioritised by the Trust to the detriment of accuracy of accounting, and he noted the pressures leading to reporting in such a way as to achieve the Control Total. Although noting these points, Mr M Stocks External Audit urged the Trust not to continue to accept an undeliverable Control Total and emphasised the need for Trusts to be clear with Regulators on what was achievable.

Recommended – that draft Statutory Recommendations report be noted, and the finalised version recommended for consideration at the public session of the 4 February 2021 Trust Board (as appended to these Minutes).

**AC NED
CHAIR**

1/21/3 UHL Response to Draft Statutory Recommendations

Paper D1 from the Director of Corporate and Legal Affairs and the Chief Financial Officer comprised UHL's response to the draft Statutory Recommendations report at Minute 1/21/2 above. The Director of Corporate and Legal Affairs noted the good engagement between the Trust and Mr M Stocks External Audit on this, with the latter having amended an earlier draft of his report as a result of the Trust's comments. Subject to any Audit Committee comments, the finalised version of paper D1 would also be submitted to the public session of 4 February 2021

Trust Board, accompanying the finalised Statutory Recommendations report. Once adopted by the Trust Board, paper D1 would be translated into a formal action plan and incorporated within the overarching UHL financial governance improvement plan, resulting in a single, comprehensive action plan which would be reviewed monthly by the Trust Board and FIC, and at each Audit Committee.

Ms V Bailey Non-Executive Director particularly welcomed this assurance from the Director of Corporate and Legal Affairs on how the action plan would be aligned to appropriate governance processes, and on the fact that a single action plan would cover progress. However, Ms V Bailey Non-Executive Director advised that further clarity was still needed on how the progress of actions was described – eg to clarify the meaning of ‘on track’/‘pending’/ ‘in progress’ etc. This point was supported by the Audit Committee Non-Executive Director Chair, who also emphasised the need for more rigorous and detailed monthly challenge of the overarching financial governance improvement plan by the Trust Board and Board Committees. Col (Ret’d) I Crowe Non-Executive Director asked for assurance that any issues arising from the action plan for other Board Committees such as People, Process and Performance Committee and/or Quality and Outcomes Committee would be appropriately flagged to those Committees, as he considered that there were potential issues for those groups (eg workforce efficiency discussions at PPPC). The Director of Corporate and Legal Affairs agreed to ensure that appropriate alignment and cross-referral of items took place. Mr A Johnson Non-Executive Director also requested that detail on the monitoring of each action be included in paper D1.

**DCLA/
CFO**

DCLA

Mr M Stocks External Audit also considered that UHL should request Internal Audit to review whether the actions in paper D1 resulted in subsequent, tangible change. The Chief Financial Officer advised Audit Committee members that the actions in paper D1 were already underway; he confirmed that strengthened controls had been introduced re: journals before Christmas, and he noted the key appointment of Mr S Linthwaite Deputy Director of Finance (Financial Services) to the Trust’s senior finance team and the very strong additional support currently being provided to UHL by NHSE/I in the form of high quality interims.

CFO

Mr A Johnson Non-Executive Director sought Mr M Stocks External Audit’s view on whether the Trust’s (draft) response to the (draft) Statutory Recommendations report was adequate – in response, Mr M Stocks considered that paper D1 was broadly adequate but that the response to point 9 (agreement with Commissioners and Regulators of a strategy to return UHL to a longterm sustainable financial position) required more detail from UHL. Given External Audit’s comments, Mr A Johnson Non-Executive Director advised that he was unwilling to endorse paper D1 for recommendation to the Trust Board without strengthened wording being included on point 9. The Audit Committee Non-Executive Director Chair considered that the issue of only agreeing a deliverable Control Total (which UHL was committed to doing) was separate to the issue of LLR-wide and NHSE/I engagement on the Trust’s fundamental underlying financial deficit position, and he noted comments from Mr M Stocks on the need for the Trust Board to take a view on accepting a deficit Control Total in future. In further discussion, the Director of Corporate and Legal Affairs outlined the commitments required of UHL as part of the Financial Special Measures programme, including development (and sharing with NHSE/I) of a longterm financial model aligned to the LLR STP longterm plan. The Financial Improvement Director emphasised the need for UHL to develop a credible route map for exiting Financial Special Measures and to be able to demonstrate a track record of financial delivery against plan. He also echoed comments on the need for any agreed Control Total to be realistic and deliverable.

Following discussion, the Audit Committee Non-Executive Director Chair advised that he would agree a strengthened form of words outside the meeting for the Trust’s response to point 9 of paper D1, ahead of the February 2021 Trust Board. **

** revised form of wording subsequently agreed for inclusion as follows:-

	External Auditor Recommendation	UHL Response (updated)
9.	The Trust Board should agree with its commissioners, NHS England and Improvement, and the Department of Health a strategy that will return the Trust to a long term sustainable financial	The Trust is committed to eliminating the underlying financial deficit as soon as practically possible and has commenced a programme of work to identify cash and

	position.	efficiency savings and to ensure the best possible value for money. If this produces a compelling case for increased funding it will work constructively with Commissioners, NHS England and Improvement and the Department of Health to secure appropriate funding levels. In the meantime it will not agree unrealistic financial targets but recognises it has an obligation to work together with partners in the local health economy to build a system that is both clinically and financially sustainable.
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Recommended – that (A) subject to inclusion of the revised ‘UHL response’ wording above for point 9, the Trust’s draft response to the draft Statutory Recommendations report be endorsed and recommended for Trust Board approval on 4 February 2021 (as appended to these Minutes);

**AC NED
CHAIR**

(B) with regard to the action plan resulting from paper D1 for report to FIC and Trust Board monthly and each Audit Committee, the Chief Financial Officer and the Director of Corporate and Legal Affairs be requested to:-

**DCLA/
CFO**

(1) ensure that all of the actions were incorporated within the Financial Governance Improvement Plan, identifying key action owners, dates for completion and monitoring arrangements (including at Trust Board, the Finance and Investment Committee, and Audit Committee);

(2) ensure that other Board Committees were appropriately sighted to issues requiring their discussion/monitoring, and

(C) consideration be given to seeking an Internal Audit view on whether the action plan measures resulting in tangible practice and culture changes.

CFO

1/21/4 Report from the Chief Financial Officer

Recommended – that this Minute be classed as confidential and taken in private accordingly.

1/21/5 Update on Plans/Timetable to Revise and Re-Audit the 2019/20 Accounts

Paper G from the Deputy Financial Improvement Director updated the Audit Committee on the plans to revise and reaudit the Trust’s 2019/20 annual accounts, and the timetable for that work. An appropriate action plan was being developed from paper G. Following a scoping exercise which had begun before Christmas 2020, it was the Trust’s ambition to restate the accounts by 31 March 2021 (unaudited position – the timescale for auditing the restated balance sheet remained to be agreed) although this was not without risk. The 2019/20 closing balance sheet would then be ‘rolled forward’ as the Trust’s 2020/21 opening balance sheet and the basis for the construction of the 2020/21 annual accounts (for completion by 31 August 2021 as detailed in Minute 1/21/6 below).

The Deputy Director of Financial Improvement emphasised the need for significant communication and coordination between the Trust and its stakeholders throughout the process. Appropriate governance was essential in awarding the contract for the ‘delivery’ phase of the work to revise and reaudit the 2019/20 accounts, and the Deputy Financial Improvement Director was working closely with the Trust’s procurement team and the Director of Corporate and Legal Affairs on that.

Recommended – that the proposed plan and timetable to revise and reaudit the 2019/20 accounts be endorsed and recommended for Trust Board approval.

**AC NED
CHAIR**

1/21/6 Update on Plans/Timetable for Preparation of the 2020/21 Accounts and External Audit

Paper H from the Deputy Director of Finance (Financial Services) updated the Audit Committee on the plans to prepare the Trust's 2020/21 annual accounts, and the timetable for that work (at both draft and audited stage). He emphasised the need to align to the national accounts timetable without any delay associated with the 2019/20 restatement, and the Chief Financial Officer noted the crucial importance therefore of meeting the 31 March 2021 timescale for restating the 2019/20 accounts (unaudited position) as detailed in Minute 1/21/5 above. Although the draft accounts deadline for NHS bodies was 27 April 2021, NHSE/I was giving those provider organisations who required more time (and met the criteria) an extended date of by 11 May 2021, with a consequent deferment of the audited accounts deadline to 29 June 2021. The Audit Committee Non-Executive Director Chair confirmed the Audit Committee's agreement to seek this extension. As detailed in paper H, however, due to the likely complexities of auditing its 2020/21 accounts UHL anticipated that its final audited accounts would not be ready for submission until 31 August 2021. The ability to submit a clean true set of accounts by that date would be a significant milestone for the Trust. In response to a query from the Audit Committee Non-Executive Director Chair seeking assurance on any repercussions from missing the 29 June 2021 submission date, the Chief Financial Officer considered that NHSE/I were aware of the need for a clean set of accounts, and he noted that the reasons for the complexity of the audit process were clear to the Regulators. It would be crucial, however, to avoid any significant slippage on that 31 August 2021 date.

**CFO/
DDF(FS)**

Recommended – that (A) an application be made to NHSE/I to seek the available 2-week extension to the submission of both the unaudited and audited accounts 2020/21, and

**CFO/
DDF(FS)**

(B) the proposed plan and timetable for preparation of the 2020/21 accounts be endorsed and recommended for Trust Board approval.

**AC NED
CHAIR**

2/21 REPORT FROM THE CHIEF FINANCIAL OFFICER

Recommended – that this Minute be classed as confidential and taken in private accordingly.

3/21 REPORT FROM THE ACTING CHIEF EXECUTIVE

Recommended – that this Minute be classed as confidential and taken in private accordingly.

RESOLVED ITEMS

4/21 APOLOGIES FOR ABSENCE AND WELCOME

Apologies for absence were received from Mr J Shuter, Director of Operational Finance. The Audit Committee Non-Executive Director Chair welcomed Mr S Linthwaite, Deputy Director of Finance (Financial Services) to the meeting.

5/21 DECLARATIONS OF INTERESTS

Mr A Johnson, Non-Executive Director, declared his interest as Non-Executive Chair of Trust Group Holdings Ltd and Fight4Rutland. Mr S Lazarus Chief Financial Officer declared his role as a Non-Executive Director of Trust Group Holdings Ltd. With the agreement of the Audit Committee, these individuals remained present.

Resolved – that the position be noted.

6/21 MINUTES

Resolved – that the Minutes of the 16 November 2020 Audit Committee (papers A1 and A2), and the Minutes of the 2 December 2020 Audit Committee (paper A3) be confirmed as a correct record.

7/21 MATTERS ARISING REPORT

Resolved – that the matters arising report be noted.

8/21 KEY ISSUES FOR DISCUSSION/DECISION

8/21/1 Actions Taken and Planned to Strengthen the UHL Finance Function and Key Financial Controls

Paper F from the Chief Financial Officer provided assurance to the Audit Committee on the actions underway to strengthen UHL's finance function, noting the very significant (and welcomed) interim support available from NHSE/I as part of the Financial Special Measures programme. Given the work required, the Chief Financial Officer considered that this high quality interim support was likely to be needed until Autumn 2021. A number of new substantive senior finance team appointments had also been made by UHL. A new finance function structure was being developed for implementation on 1 January 2022 – although recognising that this was a period of uncertainty for the existing team the Chief Financial Officer considered that this timescale was necessary to deliver the required improvements. The Audit Committee Non-Executive Director Chair emphasised the need to take as much time as required, but no more than was necessary, and requested that a more detailed update be provided to a future Audit Committee (including, eg, a proposed structure chart). The Chief Financial Officer advised that the work on key financial controls was covered in more detail elsewhere on the agenda.

CFO

Resolved – that a detailed update on the work to strengthen the UHL financial function be provided to a future Audit Committee.

CFO

8/21/2 Internal Audit Progress Report, Including the Updated 2020/21 Internal Audit Plan

Paper I advised Audit Committee members that work continued to progress on all elements of the Internal Audit plan, although impacted by the current pandemic pressures on the NHS. Two final reports had been issued as per Minutes 8/21/2 and 8/21/3 below, and the draft report on the NIHR Clinical Research Network had also now been finalised. Some delays had been experienced in receiving information for the payroll audit currently underway, which had been escalated to the appropriate Executive Director. In introducing the report, Ms A Bredon Internal Audit noted changes to the original Internal Audit plan (deferral of the financial reporting review, and use of the days originally planned for Governance to carry out a review of Contract Management, as requested by the Trust's Finance and Investment Committee).

Ms C Wood, Internal Audit also updated the Audit Committee on a number of changes to the overdue actions from previous Internal Audit reports, as detailed in paper I. Since paper I had been issued, 4 actions had been closed and extended action dates had been agreed to be appropriate for a further 3, resulting in a reduction in the number of overdue actions to 7 from the original 14. The Audit Committee Non-Executive Director Chair requested assurance on whether any of the overdue actions should be of specific concern for the Audit Committee – in response, Ms C Wood Internal Audit advised that only 1 of the remaining 7 overdue actions was rated as high risk – this related to private patient debts and the Deputy Director of Financial Improvement confirmed that work was in hand on this issue. Although noting this update, the Audit Committee Non-Executive Director Chair emphasised his wish for progress to have been made on this issue by the time of the next Audit Committee. With regard to the other 3 high risk rated actions in this section of paper I, 2 had been extended and Internal Audit had requested sight of specific evidence in order to close the remaining 1. In discussion, Ms V Bailey Non-Executive Director advised that the Quality and Outcomes Committee (which she chaired) was reviewing the ED safety checklist issues, and she requested therefore that these actions not be closed until QOC had sufficient assurance.

DFID/
CFO

CW
(IA)

Resolved – that (A) the Internal Audit plan update be noted, and

**(B) with regard to the overdue actions from previous Internal Audit reports:-
(1) appropriate progress be made on the private patient debt high risk finding by the time of the next Audit Committee (March 2021), and
(2) the need for QOC to be satisfied of the position before the ED safety checklist actions were closed, be noted.**

DFID/
CFO

CW
(IA)

8/21/3 Internal Audit Review of Accounts Payable – Final Report

Paper J1 detailed the final report of Internal Audit's review of Accounts Payable, which had an overall 'high' risk classification. Ms C Wood Internal Audit particularly advised the Audit Committee of the high risk finding on purchase to pay tolerances, as the 10% threshold for automatic processing was higher than would be expected, not in line with UHL policy, and higher than previously in place within the Trust. Variances greater than 10% were processed manually. Ms C Wood Internal Audit also highlighted medium-rated finding 2 on BPPC Reporting in respect of small and medium enterprises (SMEs) and purchase orders not being raised. Internal Audit intended to rerun this data analysis in March 2021. The Deputy Financial Improvement Director provided assurance to the Audit Committee that the issue of SMEs was part of the overarching financial governance improvement plan, and he voiced his own concern about the purchase order issues which was a whole-Trust issue – this was echoed by Ms V Bailey Non-Executive Director who also noted the need for appropriate governance to be in place. The Deputy Financial Improvement Director was working with UHL's Head of Procurement and Supplies and the Director of Corporate and Legal Affairs to review the Trust's Standing Orders and Standing Financial Instructions and reinforce the requirement for purchase orders. The Chief Financial Officer echoed these comments, and noted his own view that tolerances should not be used.

The Audit Committee Non-Executive Director Chair queried why the report did not mention the risk of duplicate payments if no purchase order was in place, and he emphasised the benefits of having a robust purchase to pay system in place. The Deputy Financial Improvement Director advised that the revised budget-holder training programme would also cover process issues, and he confirmed that compliance with the process would be monitored. The Deputy Director of Finance (Financial Services) commented on the need to make better use of appropriate technology and automated system controls, which was particularly welcomed by Mr A Johnson Non-Executive Director. Mr A Johnson Non-Executive Director also commented that the 10% tolerance threshold had originally been introduced with a view to being tightened up over time, which had clearly not occurred. The Deputy Financial Improvement Director also suggested a need to build a follow-up assurance review into the Internal Audit plan.

CFO/
CW (IA)

Resolved – that consideration be given to including a follow-up assurance review on accounts payable in the Internal Audit plan.

CFO/
CW (IA)

8/21/4 Internal Audit Review of Waiting List Management – Final Report

Paper J2 detailed the final report on Internal Audit's review of waiting list management, which had an overall 'medium' risk classification. Ms V Bailey Non-Executive Director voiced concern at the findings of this review, particularly in respect of the lack of evidence available to demonstrate that processes were taking place at specialty-level. Ms V Bailey Non-Executive Director also voiced her concern at the lack of consistency between specialties and the risk that Covid-19 pressures were disrupting process, and suggested that this issue should be reviewed further by the People, Process and Performance Committee. Although recognising the intense pressures on specialties, Ms C Wood Internal Audit agreed that an audit trail of the process was crucial, which was not currently always in place. However, she considered that the availability of evidence might have been impacted by the timing of the report. She also advised that consistency concerns related primarily to outpatients rather than inpatients. Ms C Wood Internal Audit also advised the Audit Committee that the Trust's RTT Policy did not clearly outline what was required of specialties, and she noted the need for greater clarity on expectations. Mr A Johnson Non-Executive Director echoed the Non-Executive Director concerns expressed about process inconsistencies between specialties – given that these were stated in the report to be 'significant' he emphasised the need for appropriate follow-up on those issues.

PPPC
NED
CHAIR

Resolved – that the process consistency concerns highlighted in the Internal Audit review of waiting list management be referred to the People, Process and Performance Committee for discussion and follow-up.

PPPC
NED
CHAIR

8/21/5 Local Counter-Fraud Specialist Report

Ms A Clarke, Local Counter-Fraud Specialist, PwC, introduced her progress report at paper K. She confirmed that the Deputy Director of Finance (Financial Services) had been identified as UHL's Counter-Fraud Champion and nominated counter-fraud contact. Work was broadly in

line with plan, although impacted by Covid-19 pandemic pressures on the Trust, and the Local Counter-Fraud Specialist noted the need for input from UHL on progressing certain reactive cases (as detailed in paper K). She also confirmed that she had supported UHL in making the required return in response to the NHS CFA Fraud Prevention Guidance Impact Assessment, on time (4 December 2020). National vaccination fraud alerts had also been shared with the Trust.

In respect of open fraud cases, the Local Counter-Fraud Specialist commented on the need to understand the differing level of HR sanctions applied, which she was discussing further with the Deputy Director of Finance (Financial Services). Ms V Bailey Non-Executive Director queried whether ethnicity data was collected as part of counter-fraud work (and was advised that it was not routinely collected, unless pertinent to the investigation), and requested therefore that the Local Counter-Fraud Specialist discuss that issue further with the Deputy Director of Finance (Financial Services). The Audit Committee Non-Executive Director Chair supported the collection of ethnicity data, and also voiced his concerns over the length of suspensions and the overall time to investigate cases, noting that he intended to discuss the detail of the open cases further with the Local Counter-Fraud Specialist.

LCFS

AC NED
CHAIR

Resolved – that (A) the issue of routine collection of ethnicity data as part of local counter-fraud investigations be discussed with the Deputy Director of Finance (Financial Services), and

LCFS

(B) a discussion take place outside the meeting between the Audit Committee Non-Executive Director Chair and the Local Counter-Fraud Specialist, to understand the detail of the open fraud cases.

AC NED
CHAIR/
LCFS

9/21 ITEMS FOR NOTING

Resolved – that the following reports be received and noted at papers L1-O respectively:

- (A) Minutes of the Quality and Outcomes Committee meetings held on 29 October 2020, 26 November 2020, and 17 December 2020;
- (B) Minutes of the People, Process and Performance Committee meetings held on 29 October 2020, 26 November 2020, and 17 December 2020;
- (C) Minutes of the Finance and Investment Committee meetings held on 29 October 2020, 26 November 2020, and 17 December 2020, and
- (D) Minutes of the Charitable Funds Committee meeting held on 18 December 2020.

10/21 ANY OTHER BUSINESS

There were no items of any other business.

11/21 IDENTIFICATION OF ANY KEY ISSUES FOR THE ATTENTION OF THE TRUST BOARD

Resolved – that the items recommended in Minutes 1/21-3/21 above be brought to the attention of the Trust Board.

12/21 DATE OF NEXT MEETING AND MEETING DATES 2021/22

The next Audit Committee meeting will be held on **Friday 5 March 2021 from 9am – 12noon** (held virtually via MS Teams).

Remaining 2021/22 meetings will be held as follows (9am to 12noon):-

- Friday 28 May 2021;
- Friday 9 July 2021;
- Friday 10 September 2021;
- Friday 12 November 2021;
- Friday 14 January 2022, and
- Friday 11 March 2022.

13/21 DISCUSSIONS IN THE ABSENCE OF EXTERNAL AUDIT AND INTERNAL AUDIT REPRESENTATIVES

13/21/1 Minutes

Resolved – that the confidential Minutes of the Audit Committee meeting held on 2 December 2020 be confirmed as a correct record.

13/21/2 Matters Arising

Resolved – that the confidential matters arising log from the Audit Committee meeting held on 2 December 2020 be noted.

The meeting closed at 5pm

Helen Stokes
Corporate and Committee Services Manager

Audit Committee Cumulative Record of Members' Attendance (2020-21 to date):

Members:

Name	Possible	Actual	%
M Williams	3	3	100
V Bailey	4	4	100
I Crowe	4	4	100
A Johnson	4	4	100
K Jenkins (Until July 2020)	1	1	100

In attendance:

Name	Possible	Actual	%
S Lazarus	4	3	75
N Sone	1	1	100
J Shuter	4	3	75
S Ward	4	4	100

Rt Hon Mr M Hancock
 Secretary of State
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15 December 2020

Dear Secretary of State

Referral under section 30 of the Local Audit and Accountability Act 2014

We are the auditor appointed to the audit of University Hospitals of Leicester NHS Trust for the year ending 31 March 2020.

Our responsibility

Section 30 of the Local Audit and Accountability Act 2014 states that:

A local auditor of the accounts of a health service body must as soon as reasonably practicable refer the matter to the Secretary of State if the auditor believes that the body or an officer of the body:

- (a) is about to make, or has made, a decision which involves or would involve the body incurring unlawful expenditure, or
- (b) is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency.

We are writing to you in accordance with sections 30(b) and 30(a) of the Local Audit and Accountability Act 2014.

The duty of the Trust to 'break even'

Paragraph 2(1) of Schedule 5 of the National Health Service Act 2006 provides:

Each NHS trust must ensure that its revenue is not less than sufficient, taking one financial year with another, to meet outgoings properly chargeable to revenue account.

This duty is known as the 'break even duty'. The phrase *'taking one financial year with another'* has been interpreted by the Department of Health and Social Care and HM Treasury as meaning that the duty is met if income equals or exceeds expenditure over a three year rolling period, or exceptionally a five year rolling period with the agreement of NHS Improvement.

Reasons for making a referral under section 30 of the Local Audit and Accountability Act 2014

s30(b) referral

Taking into account the 'Statutory breakeven duty: a guide for NHS trusts' guidance issued by NHS Improvement in April 2018 the University Hospitals of Leicester NHS Trust has taken a course of action that has led to a breach of the Trust's breakeven duty for the three year period ending 31 March 2020.

We made a referral under section 30(b) of the Local Audit and Accountability Act 2014 on 25 May 2018. We made a further referral under section 30(b) and 30(a) of the Local Audit and Accountability Act 2014 on 24 May 2019 regarding University Hospitals of Leicester NHS Trust breaching its break-even duty over a three year period ending 31 March 2019, and the likelihood that the Trust would continue to breach its duty to break-even in 2019/20.

University Hospitals of Leicester NHS Trust set a deficit budget of £48.7 million excluding PSF, FRF and MRET funding for the year ended 31 March 2020. At the 31 March 2020 the Trust has reported a deficit for the year of £77.3 million in its draft financial statements. As demonstrated in Table 1 below, the cumulative deficit is now £328.4 million. These figures are subject to audit.

Table 1

	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7
	2013/14	2014/15	2015/16	2016/17	2017/18	2018/19	2019/20
	£'000	£'000	£'000	£'000	£'000	£'000	£'000
Final In-Year Position	(39,655)	(40,648)	(34,051)	(27,152)	(49,116)	(65,632)	(77,280)
Cumulative Break-even Position	(34,502)	(75,150)	(109,201)	(136,353)	(185,469)	(251,101)	(328,381)

Source: Note 37 of the 2019/20 draft financial statements

The Trust therefore continues to take a course of action that is unlawful and has caused a loss which gives rise to a duty on us to report to you under section 30(b) of the Local Audit and Accountability Act 2014 in respect of the three year period ended 31 March 2020.

s30(a) referral

At the date of this letter the University Hospitals of Leicester NHS Trust the Trust does not have an up to date medium-term financial plan (MTFP), with the latest MTFP for the five years to 31 March 2023 being approved by the Trust Board in November 2017. The medium-term financial plan (MTFP) indicates that it will continue to have a deficit and it is unclear how it can return to in-year financial balance (as this plan projects financial deficits ranging from £9.7 million to £68.3m for all financial years to 2023/24). We consider that the continued deficit position has led to inappropriate board governance and failure to deliver NHS performance standards.

We note that the Trust has been placed into financial special measures and continues to receive support from and report to NHS Improvement. The Trust submitted a 2020/21 Draft Financial Plan with an income and expenditure deficit plan of £82.3 million to NHS Improvement. We note that completion and approval of the 2020/21 Financial Plan was subject to revised arrangements and timescales for the national Operational Planning process, which was suspended due to the impact of Covid-19. To support trusts during the Covid-19 pandemic, the NHS is providing Top Up funding via NHS England and NHS Improvement. As a result of this top up funding, the Trust's forecast position is breakeven.

The Trust has had a deficit in each of the years since 2013/14. We consider that the Trust is likely to return to a deficit financial position once the support for the COVID-19 pandemic is ended. The factors resulting in the cumulative deficit are multi-factoral. However, we do not consider that it is sustainable for the Trust to continue with its present level of funding and that it will need to seek additional financial support if it is to return to financial balance.

The Trust does not have any plans under its current MTFP and the subsequent updates referred to above to recover the deficits from 2018/19 and 2019/20. The Trust has made a decision for the three year period ended 31 March 2020 to incur unlawful expenditure which gives rise to a duty on us to report to you under section 30(a) of the Local Audit and Accountability Act 2014.

The duty of the Trust to issue financial statements and an annual report relating to 2019/20

The National Health Service Act 2006 Act requires that each NHS body must prepare, in respect of each financial year, annual accounts in such form as the Secretary of State may direct with the approval of the Treasury.

The Department of Health and Social Care (DHSC) has issued Accounts Directions to all NHS trusts, in accordance with schedule 15 paragraph 3(1) of the National Health Service Act 2006. The Directions require that NHS trusts prepare and submit accounts under section 232 of and Schedule 15 to the National Health Service Act 2006. The accounts must show, and give a true and fair view of, the Trust's gains and losses, cash flows and financial state at the end of the financial year.

The accounts must meet the accounting requirements of the Department of Health and Social Care Group Accounting Manual ("the Manual") as it applies for the relevant financial year, as agreed with the Treasury. NHS trusts are group bodies under 'the Manual'. DHSC group bodies are required to publish, as a single document, a three-part annual report and accounts (ARA), which includes:

- The Performance Report, which must include: an overview and a performance analysis.
- The Accountability Report, which must include: a Corporate Governance Report, a Remuneration and Staff Report, and an Audit Report.
- The Financial Statements (the accounts).

Reasons for making a referral under section 30b of the Local Audit and Accountability Act 2014

We draw the following matters to your attention.

The Trust has prepared accounts for the year ended 31 March 2020 under section 232 of and Schedule 15 to the National Health Service Act 2006, which we have audited, but has determined that it is unable to submit these audited accounts. We are therefore unable to issue our audit opinion. As such we consider that, due to the non-submission of audited accounts, that the Trust is in breach of the National Health Service Act 2006 and the Directions issued by the Secretary of State.

We note the requirement that the accounts must show, and give a true and fair view of, the Trust's gains and losses, cash flows and financial state at the end of the financial year. The Trust has determined that the draft accounts prepared do not show a true and fair view. Following our audit, we agree with this assessment. We therefore consider that the Trust is in breach of the requirement to prepare accounts that give a true and fair view.

We note that the Trust has determined that it will revise these accounts prior to resubmitting the accounts for re-audit. Its plan is to revise the accounts by March 2021. There is no agreed timetable for the audit of the revised financial statements.

The Trust has not prepared a Corporate Governance Report for the year ended 31 March 2020, which should form part of its Annual Report and Accounts. We therefore consider that the Trust is in breach of the National Health Service Act 2006 and the manual issued by the DHSC under the Directions issued by the Secretary of State to prepare a Corporate Governance Report as part of its ARA.

Yours sincerely



Grant Thornton UK LLP, local auditors



Statutory Recommendations

Final Report

University Hospitals of Leicester NHS Trust

Audit of Accounts 2019/20

Financial Reporting, Governance, and Financial Sustainability

University Hospitals of Leicester NHS Trust (the Trust)

Statutory Recommendations

January 2021

Our responsibilities

As well as our responsibilities to give an opinion on the financial statements and assess the arrangements for securing economy, efficiency and effectiveness in the Trust's use of resources, we have additional powers and duties under the Local Audit and Accountability Act 2014 ('The Act'). These include powers to issue a public interest report, make statutory recommendations and to apply to the Court for a declaration that an item of account is contrary to law.

We have concluded that it is appropriate for us to use our powers to make statutory recommendations under section 24 of The Act (Schedule 7) due to issues we have identified with regard to the Trust's financial reporting, governance and financial sustainability.

We consider that both financial reporting and the governance of the Trust has fallen below the standards expected of a public sector body. We also consider that, until 2020/21, that the Trust was not managing to deliver effective services within the funding made available to it. We consider that the Trust is likely to return to a deficit position in 2021/22. We consider that urgent action is needed by the Trust Board with regard to all of these matters.

Financial reporting

A fundamental part of the assurance provided to the Board on its finances is its control environment. The control environment comprises the procedures and controls in place to manage financial transactions and ensure that they are appropriately processed. It also includes the procedures and controls that the Trust uses to ensure the accuracy of its accounts. We do not consider that aspects of the Trust's control environment have been adequate throughout 2019/20. We have set out below the weaknesses reported in our 2017/18, 2018/19 Audit Findings Reports and in our draft 2019/20 Audit Findings Report. Our 2019/20 Audit Findings Report is yet to conclude.

Financial statements

Audit of 2019/20 financial statements

Our audit concluded that there were material misstatements in the 2019/20 financial statements and that the effect of the misstatement was pervasive to the financial statements. We therefore concluded that an unqualified opinion was not justified and planned to issue a disclaimer form of opinion on the 2019/20 financial statements. A disclaimer of opinion is only issued when the possible effects of undetected misstatements due to the lack of evidence could be both material and pervasive to the financial statements. We consider that the errors and uncertainties identified are material and impact on a substantial portion of the financial statements.

We reported issues with regard to use of journals, non pay expenditure and payables, pay, inventories, PSF, MRET and FRF income, buildings valuations, equipment valuation, finance leases and accounts disclosure errors including the SOCITE, and Cashflow.

The Trust has determined that it is unable to adopt these audited accounts as it has determined that its draft accounts do not show a true and fair view. We are therefore unable to issue our audit opinion. As such we consider that, due to the non-submission of audited accounts, that the Trust is in breach of the National Health Service Act 2006 and the Directions issued by the Secretary of State.

We note that the Trust has determined that it will revise these accounts prior to resubmitting the accounts for re-audit. Its plan is to revise the accounts by March 2021. While there is no agreed timetable for the audit of the revised financial statements we note that the Trust has appointed Deloitte to help scope the work needed to prepare revised financial statements for 2019/20.

Accounts preparation

We consider that the Trust's procedures for the preparation of its financial statements are inadequate. The financial statements presented for audit in 2017/18, 2018/19 and 2019/20 have been of a poor quality and have contained significant errors. Transactions have been processed outside of the ledger and the accounts have not reconciled to supporting financial systems. The working papers presented for audit have been inaccurate and contained inaccurate analysis. The accounts presented for audit have not been subject to appropriate quality control checks. All of the accounts have required significant restatement.

We have reported our concerns in 2017/18, 2018/19 and 2019/20.

Accounting judgements

There are a number of significant accounting judgements within the financial statements that impact the Trust's financial positions, for example, EQUIP and MES. There is insufficient oversight of these judgements which has resulted in errors in the financial statements. Similarly, we consider that the amendment of significant accounting estimates should be subject to Audit Committee review and approval. Evidence should be provided to support any changes before they are made. While this improved in 2019/20 we note that the Committee

was not provided with sufficient detail with regard to the change in the basis for asset valuations or with regard to the accounting for EQUIP. Nor has there been any discussion at the committee with regard to the estimation or pricing methods used in valuing stock.

Accounting policies

We consider that the control of accounting policies and methodologies should be improved. We note that the 'de minimis' accounting policy has been adjusted to a more appropriate policy. We remain of the view that all future changes to accounting policies should be approved by the Audit Committee. Similarly, we note that there is no control over changes to previously agreed accounting models. For example, the MES model has been adjusted without senior agreement such that it does not reflect the contract signed by the Trust. We recommend that all changes to financial models are approved by senior officers.

We note that all accounting policy changes introduced since the new Chief Financial Officer was appointed have been approved by the Audit Committee.

Accounting control systems

We have identified and reported a significant number of deficiencies in the operation of the Trust's financial control procedures. In particular, we note that the lack of control over journals has resulted, in part, in amendments being required to the Trust's 2018/19 financial statements. These weaknesses continued into 2019/20 and have resulted in further adjustments. We have also identified weaknesses with regard to the management of financial models, inventory, unauthorised invoices, GRNI etc. These are detailed separately under control deficiencies elsewhere in this report.

We note that the Trust in December 2020 introduced automated control of journals. We consider that the operation of these controls is essential to good financial management at the Trust.

Finance team capacity and capability

During the 2017/18 and 2018/19 audits we raised concerns with the Director of Finance and Audit Committee over the capacity and capability of the finance team. We remain of the opinion that the finance team is not 'fit for purpose' and requires investment to both increase its capacity and to ensure that it has the skills needed in a complex financial environment.

We note that in recent months the Trust has appointed a Deputy Director of Financial Service and a Deputy Director of Finance Financial Management. In addition, the Trust is receiving significant support in the form of senior personnel and interim appointees through the NHS England and Improvement (NHSE/I) Intensive Support Team. A review of the finance teams capacity and capability is also planned.

Continued action is needed in this area.

Financial reporting

We are also concerned with regard to the quality of in year financial reporting.

The Trust accessed £17.7 million of PSF, FRF, and MRET funding in 2019/20. Our review of in-year financial reporting indicates that the Trust was reporting that it was on target to meet its control total up to Month 8 (November 2019) which resulted in it having access to this funding to that point. It is only in December 2019, following the arrival of the Interim Chief Financial Officer, when the Trust began to report figures closer to those reported in the draft financial statements. The financial information reported from January 2020 indicates a significant financial shift, with the reported financial position altered from the Trust being on target to a £58.9 million adverse variance to plan. The final outturn for the Trust was a deficit of £66.4m.

It is not, in our view, credible that an adverse variance of this size arose in the last quarter of the year. We consider that the Trust Board and the Finance and Investment Committee were not appropriately informed of the Trust's financial position.

Further, we have assessed the Trust's financial position as reported to the Finance and Investment Committee and Trust Board each month. These reports provide commentary on the Trust's financial position. We consider that for a substantial proportion of the year that these reports lacked clarity with insufficient detail as to the performance of CMGs. There was also limited reference to performance against cost improvement plans to provide a rounded picture of the Trust's overall financial performance. We note that action has been recently taken to improve the quality of reports submitted to the Finance and Investment Committee on the Trust's financial performance.

Auditor view

We consider that the issues set out above have significantly impacted the Trust's control of its finances.

We reported significant errors in the Trust's 2017/18 and 2018/19 financial statements. The Trust has proposed a series of prior period adjustments to correct these errors. These issues have also impacted on the quality of the 2019/20 financial statements presented for audit.

Our 2019/20 financial statements audit concluded that there were material misstatements in the financial statements and that the effect of the misstatement was pervasive to the financial statements. We therefore concluded that an unqualified opinion was not justified and planned to issue a disclaimer form of opinion on the 2019/20 financial statements. The Trust has determined that it will revise these accounts and has appointed Deloitte to help scope the work needed to prepare revised financial statements for 2019/20.

We consider that the reporting of the Trust's in-year financial position to the Trust Board and the Finance and Investment Committee was inaccurate in 2019/20.

In summary, we consider that Trust does not have adequate arrangements in relation to reporting finances effectively.

Governance

The role of the Board and its committees is an important one. The role is a stewardship role that focuses on both the well-being of patients and the financial stewardship of the Trust. In applying its stewardship it is important that an appropriate tone is set by the Trust Board and that there is a clear focus on public sector governance standards. In considering the governance of the Trust it is important to consider the local and national context in which it operates.

Between 2013/14 and 2019/20 the Trust had a cumulative deficit of approximately £328 million. Each year the Trust has also been set a control total (a target financial performance) by NHSE/I that it is required to achieve and which it is monitored against. Where the Trust has been able to achieve the control total for all or part of the year it has been able to access funding such as the Provider Sustainability Fund. In our view the combination of the deficit position, control total target, and incentive funding has created a significant pressure on the Trust to report the best financial out-turn possible rather than a prudent financial position. We note that there is similar pressure on many trust boards.

In response to these financial pressures the Trust Board has, at least from the period from when we became external auditors in 2017/18, adopted aggressive accounting policies, practices and schemes which we do not consider to be appropriate. In particular, the Trust has adjusted its expenditure accruals policy in two consecutive years resulting in non-recognition of £10 million of expenditure. It also recognised £12.5m relating to a VAT recovery claim through its subsidiary company that was later withdrawn when the subsidiary failed to get approval from the Secretary of State. These policies, practices and schemes have now been withdrawn and adjusted through a series of prior period adjustments.

We do not consider that the Trust Board and its Committees have effectively challenged the actions of management. In our experience, the Trust Board and its Committees have invariably supported the position of management when challenged by external audit. During our appointment we have raised concerns with the Trust in respect of the following:

- accounting policies such as changes to the Trust's accruals policy, and its policies for determining the asset lives of equipment.
- accounting practices with regard to prepayments and VAT.
- accounting schemes such as the VAT claim for the NHS subsidiary company, and S106 agreement provisions re Glenfield Hospital land sale.

Invariably the Trust Board and Audit Committee have accepted the views of management rather than taking a more balanced and prudent approach to financial management. We have not observed or evidenced any formal challenge.

Management play an equally important role in supporting the appropriate governance of the Trust. During our period as auditors we have needed to challenge management on numerous occasions. Our challenge, until recent changes in management, has not been welcomed. In particular, we note that our challenge resulted in management taking a private report to the Audit Committee in July 2019. The report commented on the audit approach taken and detailed nature of the evidence requested. The report made the following recommendation 'The Trust via its Audit Committee will have to take a view on its relationship with GT if/when it reviews the contract for audit services'. This view was accepted by the Audit Committee and the contract was retendered in December 2019. During the 2019/20 audit we have been provided with anecdotal evidence that management may have deliberately misrepresented the Trust's financial position and of potential collusion with other NHS commissioners. Where we have concerns, these matters have been reported to the Interim Chief Financial Officer.

We note that the Trust has not prepared an Annual Governance Statement for the year ended 31 March 2020, which should form part of its Annual Report and Accounts (ARA). We consider that the Trust is in breach of the National Health Service Act 2006 and the manual issued by

the DHSC under the Directions issued by the Secretary of State to prepare an Annual Governance Statement as part of its ARA. We consider this to be poor governance.

Auditor view

During our appointment as auditors we have become increasingly concerned with the governance and culture at the Trust. We consider that the financial pressure on the Trust and a lack of challenge of management has resulted in inadequate governance of the Trust. We also consider that the Trust has prioritised the delivery of the control total rather than accurate financial reporting.

We consider that urgent action is needed to strengthen the governance arrangements of the Trust.

Financial sustainability

2019/20

The Trust planned to deliver a control total deficit of £10.7 million including PSF, FRF and MRET funding. Excluding this funding the target was a deficit of £48.7 million. The Trust reported a financial position in line with the annual plan until month 8.

In month 9, upon the arrival of the Interim Chief Financial Officer, the in year position moved to a deficit of £59.8 million (including PSF, FRF and MRET). This is a clear indication that the control total signed up to by the Board in 2019/20 was unrealistic and that in year financial reporting was inaccurate. There were also a number of prior period adjustments proposed to correct financial reporting inaccuracies in the preceding years.

The year-end financial position reported to the Trust Board was a deficit of £66.4 million (including £17.7 million of PSF, FRF and MRET). The 2019/20 financial reported position worsened marginally within the draft financial statements to £67.2 million with a further shift to £77.2 million as at October 2020 following the posting of amendments identified from the audit and agreed with management.

This deterioration in the in-year financial position from that budgeted is as a result of:

- non-pay expenditure continuing to exceed budgets,
- pay cost expenditure continuing to exceed budgets,
- non-delivery of cashable savings or other financial pressures which occur from implementing cost improvements (see the CIP section for more detail)

changes to accounting policies recognising additional expenditure (mainly reversing changes made by the Board against the advice of external audit in the previous two years – we consider that the current application of accounting policies is in line with NHS norms).

Due to this significant deterioration in the Trust's cumulative deficit we issued a s30 referral to the Secretary of State on 15 December 2020.

Cost Improvement Plans (CIPs)

The process for identifying 2019/20 CIPs began in October 2018. The Clinical Management Groups (CMGs) were asked to identify potential CIP schemes, alongside a central team supported by external consultants to identify Trust-wide and corporate schemes. This resulted in the identification of over £7 million of trust-wide schemes such as clinical coding and procurement.

In February 2019 the Trust Board agreed CIP schemes to the value of £26.6 million. This included over 390 individual schemes and to enable a more manageable approach these were grouped together into workstreams, for example, procurement and theatres. For schemes over £50,000 key performance indicators (KPIs) were developed to monitor progress. In addition, PIDs were developed and required approval by the individual departments and quality impact assessment approval by the Chief Nurse and Medical Director. These PIDs provide high level information on the schemes, including:

- background,
- target savings,
- how the savings will be achieved,
- key actions, and
- risks.

Schedules of the savings delivered against plan are maintained, but for 2019/20 we have not been able to identify robust savings plans to support delivery of the CIP schemes. Monthly CIP monitoring reports are produced and reviewed by the Executive Performance Board (EPB) and the Finance and Investment Committee (FIC). These reports are high level and provide a summary of the monthly position as well as the forecast year-end position.

However, they do not report the amount of non-recurrent CIPs. We note that for 2020/21 management have confirmed that they have taken action to improve reporting in both of these areas.

At month 12 the Trust reported internally that it has delivered £27.8 million of cost improvements, £1.1 million above plan. This overachievement is attributable to workstreams such as coding improvements and procurement which compensate for those areas which have not delivered to plan. Of the £27.8 million, the Trust also reported that £26.1 million (94%) was recurrent, meaning that £1.7 million (6%) were non-recurrent schemes. This is excessively high compared with other Trusts and the Trust has not been able to provide any evidence to support this. We therefore consider that the amount on non-recurrent savings is under-reported.

During our review we identified elements of non-recurrent CIPs which were identified within the PIDs (unquantified) which were not included within analysis provided by the Trust. For example, of the total procurement savings delivered within 2019/20 (£5.4 million) none were assessed as being non-recurrent. We consider that this is unrealistic. Not fully reflecting the amount of non-recurrent CIPs delivered in 2019/20 underestimates the amount of CIPs required in 2020/21 to enable the Trust to be financially sustainable.

Further, the 2019/20 budget indicated that savings of £26.6 million were required to out-turn a balanced position (after PSF, FRF and MRET funding) with CMGs being £25.5 million under budget (including income and expenditure). A key risk to this was reported as “CMGs and Directorates not delivering their budgeted position without over-spends”. The CIP information we have reviewed reported that CMGs delivered £26.5 million of savings. However, they also reported an overall deficit position of £28.8 million, indicating that either:

- reported savings were not delivered,
- savings were offset by or caused overspends elsewhere, or
- controls around expenditure are not sufficiently robust to control day to day costs.

The deterioration of the Trust’s financial position is a combination of costs exceeding budgets across all Clinical Management Groups (CMGs). In our view this indicates that significant financial pressure exists across all areas of the Trust.

2020/21

Completion and approval of the 2020/21 Financial Plan was subject to revised arrangements and timescales for the national Operational Planning process, which was suspended due to the impact of Covid-19. To support trusts during the Covid-19 pandemic, the NHS is providing Top Up funding via NHSE/I. As a result of this top up funding, no external loans have been received in the year to date. Furthermore, the Trust received £350 million of PDC funding in August 2020 which was used to repay an equivalent value of external loans.

The Trust submitted a 2020/21 Draft Financial Plan with an income and expenditure deficit plan of £82.3 million (including a CIP of £46.6 million). This is a deterioration of c£37 million from the deficit plan of £45.4 million submitted within the national five year planning process. This position therefore reflects a deterioration of c£30 million in the Trust’s underlying financial position and the loss of MRET income of £6.9 million.

The Trust submitted a 2020/21 Draft Capital Plan of £124.5 million, including the impact of potential commercial leasing developments of £27.7 million. The Trust has also had confirmation that the capital funding to reconfigure the 3 site model to a 2.4 site model has been granted. At the point of concluding this conclusion, there are no timescales as to when that funding will be received.

Normal NHS funding arrangements were suspended early in 2020 due to COVID 19 and all NHS trusts are being block funding for services to ensure that they do not incur deficits. As such the Trust has not had to implement the revenue plans as set out above. We note that as at November 2020 that the Trust was reporting a surplus of £9.8 million for the financial year.

The Trust has also indicated that it expects to achieve a revised cost improvement plan for 2020/21. It is also in the process of developing plans for cost improvement for 2021/22. It considers that significant changes have been made during 2020/21 to improve the Trust's approach to cost improvements, such as the appointment of a Director of Quality Improvement and Efficiency Transformation, supported by the establishment of a properly resourced a Project management Officer and external consultancy support.

While we note the improvements made we remain concerned that when the block funding arrangements put in place for COVID 19 end that the Trust will return to a deficit position.

Auditor view

The Trust has had a deficit since 2013/14 and as at 31 March 2020 it has a cumulative deficit of £328.4m. We consider that the factors impacting on the deficit are multi-factoral but note that one of these issues relates to the funding of the Trust. Given the issues identified in our report, we do not consider that it is sustainable for the Trust to continue with its present level of funding. It requires investment to support the delivery of care, to improve governance, and to strength the capability and capacity of the finance team.

We note that the Trust has been placed in Financial Special Measures and is now working more closely with NHSE/I and partners in the Leicester, Leicestershire and Rutland Clinical Commissioning Groups. We consider that as part of this work that the Trust should seek to agree with its commissioners, NHSE/I and the Department of Health a strategy that will return the Trust to a long term sustainable financial position.

Recommendations made under paragraph 2 of Schedule 7 of the Local Audit and Accountability Act 2014 ('the Act')

The Trust Board should seek to create a culture that is focussed on accurate financial reporting. In particular, the Board should discourage the use of aggressive accounting policies and practices and should provide appropriate challenge of management.

The Trust Board should finalise and publish its Annual Governance Statement at the earliest opportunity.

The finance and other management teams involved in finance should receive accounting, governance and ethics training to ensure that they are clear on the appropriate accounting practices and the governance standards required by the Trust Board.

The Trust should complete its planned review of the structure and capacity of the finance team as soon as possible. As necessary additional investment should be made in the capacity and capability of the team.

The Trust Board should undertake a review of its financial procedures and controls to ensure that they are 'fit for purpose'.

The control of journals should be significantly enhanced. The Trust Board should ensure that the automated system recently introduced is effective and prevents the self-authorisation of journals.

The Trust Board should undertake a detailed review of its accounts preparation processes and amend its procedures to allow accounts and supporting working papers of an appropriate quality to be prepared for audit

The Trust Board should take urgent action to complete the revision and audit of its financial statements.

The Trust Board should agree with its commissioners, NHS England and Improvement, and the Department of Health a strategy that will return the Trust to a long term sustainable financial position.

What does the Trust Board need to do next?

The Trust Board should consider these recommendations and respond formally to us as to the actions it intends to take in response.

These recommendations will be copied to:

- Secretary of State
- NHSE/I

Paragraph 5 of the Audit and Accountability Act 2014 does not apply. As such there is no requirement for the Trust to consider our recommendations at a public meeting. Due to the nature of the issues we consider that the matters should be open to public scrutiny.

University Hospitals of Leicester NHS Trust

Audit of Accounts 2019/20

Statutory Recommendations

	External Auditor Recommendation	UHL Response
1.	The Trust Board should seek to create a culture that is focussed on accurate financial reporting. In particular, the Board should discourage the use of aggressive accounting policies and practices and should provide appropriate challenge of management.	<p>The Trust Board is to undergo a programme of development, externally-facilitated, with particular emphasis on the financial aspects of the Board's responsibilities. Specifically, the programme will focus on:</p> <ul style="list-style-type: none">• Reviewing the responsibilities of unitary Board members, emphasising that all are accountable in relation to the financial performance of the Trust;• The provision of specific financial analysis training, tailored to individual Board member experience and need;• A programme of support for Non-Executive Directors in how to effectively scrutinise and challenge within a unitary Board environment;• The provision of training and guidance for Executives focussing on their corporate Director role for challenging financial performance and reporting.
2.	The Trust Board should finalise and publish its Annual Governance Statement at the earliest opportunity.	The annual governance statement will be finalised and published alongside the annual accounts 2019/20, once finalised.
3.	The finance and other management teams involved in finance should receive accounting, governance and ethics training to ensure that they are clear on the appropriate accounting practices and the governance standards required by the Trust Board.	The Trust will provide organisational wide budget/financial training/governance programmes for all budget holders. This will also include specific training in relation to the upcoming restated SFIs/SOs/Scheme of Delegation. All Finance staff will undergo a capability review that will identify specific training needs and training programmes will be provided; this will be monitored on an

		ongoing basis through the staff appraisal process and to ensure their continual professional development. All Trust staff will receive regular ethics and values training.
4.	The Trust should complete its planned review of the structure and capacity of the finance team as soon as possible. As necessary additional investment should be made in the capacity and capability of the team.	Restructure of the Finance Department will be completed and in place for 1/1/22. In the period leading up to the implementation further interim support will be put in place to support this transitional period. The current capacity of the Finance Team is also to be reviewed and benchmarked against peer level/top performing Finance Departments within the NHS.
5.	The Trust Board should undertake a review of its financial procedures and controls to ensure that they are 'fit for purpose'.	Review of the SFIs/SO's/Scheme of Delegation is currently underway. Once finalised and adopted by the Trust, a further education and training programme for all budget holders will be rolled out and for all new starters (budget holders) to support adherence to these controls. In addition the specific internal controls that operate within the Finance Department will also be reviewed and enhanced and supported by a further training programme for Finance personnel.
6.	The control of journals should be significantly enhanced. The Trust Board should ensure that the automated system recently introduced is effective and prevents the self-authorisation of journals.	New journal controls have been implemented wef December 2020. These will be further reviewed and will be subject to internal audit review by March 2021 to review compliance and to consider further control enhancements as appropriate.
7.	The Trust Board should undertake a detailed review of its accounts preparation processes and amend its procedures to allow accounts and supporting working papers of an appropriate quality to be prepared for audit.	The Trust is currently undertaking a systematic review of its accounts preparation processes and procedures. Actions have been identified to review and redesign the working papers to ensure adequacy, clarity, linking to accounts and file accessibility.
8.	The Trust Board should take urgent action to complete the revision and audit of its financial statements.	The Trust has engaged with Deloitte on a scoping exercise to ultimately reconstruct the 2019/20 closing balance sheet that will allow the audit to conclude. This will then allow the Trust to build its financial statements on a recognised and robust foundation for 2020/21.
9.	The Trust Board should agree with its commissioners, NHS England and Improvement, and the Department of Health a strategy that will	The Trust is committed to eliminating the underlying financial deficit as soon as practically possible and has commenced a

	<p>return the Trust to a long term sustainable financial position.</p>	<p>programme of work to identify cash and efficiency savings and to ensure the best possible value for money. If this produces a compelling case for increased funding it will work constructively with Commissioners, NHS England and Improvement and the Department of Health to secure appropriate funding levels. In the meantime it will not agree unrealistic financial targets but recognises it has an obligation to work together with partners in the local health economy to build a system that is both clinically and financially sustainable.</p>
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