

**UNIVERSITY HOSPITALS OF LEICESTER NHS TRUST****MINUTES OF AN EXTRAORDINARY VIRTUAL MEETING OF THE TRUST BOARD, HELD ON THURSDAY 31 MARCH 2022 FROM 4.00PM****Voting Members present:**

Mr J MacDonald – Trust Chairman  
 Ms V Bailey – Non-Executive Director and Quality Committee (QC) Non-Executive Director Chair  
 Mr A Furlong – Medical Director  
 Dr A Haynes – Non-Executive Director  
 Ms L Hooper – Chief Financial Officer  
 Mr J Melbourne – Chief Operating Officer  
 Ms E Meldrum – Acting Chief Nurse  
 Mr R Mitchell – Chief Executive  
 Mr B Patel – Non-Executive Director and Charitable Funds Committee (CFC) Non-Executive Director Chair  
 Professor T Robinson – Non-Executive Director  
 Mr M Williams – Non-Executive Director and Audit Committee Non-Executive Director Chair

**In attendance:**

Mr A Carruthers – Chief Information Officer  
 Ms B Cassidy – Director of Corporate and Legal Affairs  
 Ms G Collins-Punter – Associate Non-Executive Director  
 Miss M Durbridge – Director of Quality Transformation and Efficiency Improvement  
 Ms E Mayne – Grant Thornton (the Trust's External Auditor)  
 Ms M O'Brien – Head of Communications  
 Mrs K Rayns – Corporate and Committee Services Officer  
 Dr G Sharma – incoming Non-Executive Director (observing)  
 Mr M Stocks – Grant Thornton (the Trust's External Auditor)  
 Ms J Tyler-Fantom – Acting Chief People Officer  
 Mr J Worrall – Associate Non-Executive Director

**ACTION****58/22 APOLOGIES AND WELCOME**

Apologies for absence were received from Mr S Harris, Non-Executive Director.

**59/22 DECLARATIONS OF INTERESTS**

Paper A provided the declarations of interest for Ms B Cassidy, Director of Corporate and Legal Affairs and Mr J Melbourne, Chief Operating Officer. There were no additional declarations raised in respect of the business on the agenda.

**Resolved** – that the declaration of interests be received and noted as paper A.

**60/22 MINUTES**

**Resolved** – that the Minutes from the public Trust Board meeting held on 3 February 2022 be presented to the Trust Board on 7 April 2022.

**61/22 MATTERS ARISING**

**Resolved** – that the matters arising report be presented to the Trust Board on 7 April 2022.

**62/22 DECISIONS FOR THE TRUST BOARD****62/22/1 Maternity Assurance Report**

The Acting Chief Nurse introduced paper B, providing an overview of UHL's response to the significant concerns surrounding the safety of Maternity Services at Shrewsbury and Telford Hospitals NHS Trust and the University Hospitals of Morecambe Bay NHS Foundation Trust (as highlighted in the Ockenden report in December 2020 and the Kirkup Report in 2015). All NHS Trusts were required to provide an update to their public Trust Board meetings in respect of the following five key

actions:-

- Action 1 – progress against the Ockenden Immediate and Essential Actions;
- Action 2 – status and progress of maternity service workforce plans;
- Action 3 – action plan status in relation to the Morecombe Bay report (Kirkup 2015);
- Action 4 – completed Self-Assessment Assurance Tool, and
- Action 5 – confirmation that the above issues have been discussed at a Public Trust Board meeting.

The detailed appendices to paper B provided all of the above documentation. Assurance was provided that the Trust had responded to the findings of the above reviews in an open and transparent manner and that the self-assessment gap analysis would continue to be monitored and improvements embedded going forwards. Progress with the key issues was monitored via the monthly Clinical Management Group Board meetings and Maternity Safety meetings and regular updates were provided to the Executive Quality Board and the Quality Committee. The second part of the Ockenden report had been published on 30 March 2022 and this report identified 60 local actions against which Leicester's maternity service would be benchmarked to ensure that it was compliant and processes were embedded. A further 15 actions had been identified in the gap analysis which required System-wide cross-cutting actions (eg alignment with primary care).

Speaking as the Trust Board's nominated Maternity Safety Champion, Ms V Bailey, Non-Executive Director commented upon the importance of reassuring the local population that the Trust was progressing any necessary improvements and embedding the learning arising from Ockenden and Kirkup, without taking areas of compliance for granted. She provided an overview of the monthly 'drop in' meetings that were held (via MS Teams) for Maternity and Neonatal staff, confirming that these sessions were well-attended and that staff felt comfortable with speaking up and raising their concerns at these sessions, which in turn provided a robust reporting route from 'Ward to Board'.

The Medical Director endorsed Ms Bailey's comments and provided an overview of the 'learning from deaths' governance process, advising that 95% of bereaved families were spoken to by a Medical Examiner and asked if they had any concerns or issues which they would like to take further. All instances of perinatal mortality were reviewed in depth and these were presented to the Trust Board on a quarterly basis. Prior to the Covid-19 pandemic, the Trust had undertaken a detailed review of the risks arising from having a maternity service split across two sites and significant investments had been made to mitigate these risks by strengthening the workforce and improving the facilities as part of the interim maternity configuration.

The Acting Chief Nurse confirmed that whilst UHL's maternity service had a track record of robust governance structures, reporting processes and external review feedback, staff were not complacent. In particular, there was work to be done to improve the capacity of the clinical leadership teams to ensure that they had the resources required to undertake the work associated with the latest Ockenden report and it was noted that the Trust's commissioners had recently offered some supporting resources in this area. The second part of the Ockenden report would now be shared with Midwives and Obstetricians alike and they would be invited to provide their views on the gap analysis, possibly using a new approach which would re-energise the process and ensure that these important safety issues were given the credence which they deserved.

In summing up, the Trust Chairman commented upon the value of a 'fresh eyes' approach in the form of the incoming Chief Nurse and the Chief People Officer, both of whom would be commencing in May 2022. On behalf of the Trust Board, he thanked Ms E Meldrum for her significant contribution as the Trust's Acting Chief Nurse.

**Resolved – that the Trust Board received and noted the Maternity Assurance Report provided at paper B and approved the self-assessment assurance tool for submission to NHSE/I as required.**

62/22/2 Annual Report and Accounts 2019/20

The Trust Chairman introduced this agenda item, commenting upon the significant work that had taken place to finalise and audit the restated 2019/20 Accounts which were now being presented at today's meeting for the Trust Board's approval. He handed over to the Chief Financial Officer, the External Auditor, and the Audit Committee Non-Executive Director Chair to present their respective reports:-

(a) Introduction by the Chief Financial Officer, 2019/20 Annual Report, and 2019/20 Accounts

Reporting verbally, the Chief Financial Officer provided an overview of the events which had led to the Interim Chief Financial Officer being unable to recommend the 2019/20 Accounts to the Trust Board for approval in November 2020. Since then, a significant programme of work had been undertaken to re-state the 2019/20 Accounts and provide a robust set of opening balances for the 2020/21 Accounts. This restatement work had culminated in a final reported deficit of £122.7m for the Trust (pre-consolidation) and receipt of a disclaimer opinion from Grant Thornton (the Trust's External Auditors). However, she confirmed that the Trust would be working towards some form of qualified opinion in relation to the 2020/21 Accounts and she highlighted the intensive programme of work that had been undertaken in response to the Statutory Recommendations in terms of strengthening the organisation's financial culture and controls, ensuring accurate financial reporting, ethics training, and budget management training. Positive progress had been achieved in each of these areas and the External Auditor's Annual Audit Letter (which featured later in the agenda as paper C3) recognised the improvements that had been made. The 2020/21 audit was ongoing currently alongside a programme of extensive testing.

She recommended the 2019/20 Statutory Accounts (paper C1) and the 2019/20 Annual Report and Annual Governance Statement (paper C2) for formal Trust Board approval and adoption on the above basis moving forwards into 2020/21, recognising the expected journey towards achieving an unqualified opinion would take two years (as a minimum).

(b) Reports by the External Auditor

Mr M Stocks, Partner Grant Thornton (the Trust's External Auditor) introduced the Annual Audit Letter (paper C3), the Draft Audit Opinion (paper C4), and the Letter of Representation (paper C5). He summarised the key findings of the reports and drew members' attention to the adverse value for money conclusion relating to the economy, efficiency and effectiveness of the Trust. The financial statements audit had taken many months to complete, noting that the audit work had been paused in October 2020 (to allow the Trust to complete the restatement work) and then recommenced in June 2021. During that restatement work the reported deficit had moved from £67.2m to £120.9m and a full explanation had been provided for these material changes and the delays incurred. The disclaimed audit opinion had been issued due to continued risks of material misstatement as a result of undetected management override of control, inadequate journal controls, and the management-imposed limitation of scope relating to the income and expenditure accounts due to resource constraints, inventory assurance, and potential misstatements within the comparatives.

Whilst it was unfortunate that it had been necessary to disclaim the 2019/20 Accounts, it was now clear that there was a robust focus on accurate financial reporting moving forwards. The changes at Trust Board and Audit Committee levels had demonstrated that there was a clear focus on improved financial management and control and the NHSE/I interim supporting resources had been valuable in driving changes in culture, improved financial performance, reporting, controls and governance; providing the foundations of a well-managed organisation for future years. Mr Stocks recorded his appreciation to the Audit Committee and members of the Finance Team for their support throughout the Audit process and he recommended the Annual Audit Letter, Draft Audit Opinion and Letter of Representation for approval by the Trust Board.

(c) Report by the Audit Committee Non-Executive Director Chair

Mr M Williams, Audit Committee Non-Executive Director Chair provided an overview of the deliberations of the Audit Committee over the last 18 months, including the background to those deliberations, providing assurance to the Trust Board, the Trust's partners and stakeholders and the public of Leicester, Leicestershire and Rutland that the issues that had happened would not happen again in future.

He reminded the Trust Board of the challenges experienced during the 2018/19 financial year when it had become apparent that the Trust was unlikely to meet its control total, but which had resulted in a deficit position in line with the revised control total and an unqualified opinion, despite the External Auditors drawing attention to a range of issues which fell below the threshold of materiality and a number of concerns about accounting practices and procedures. The Trust

decided not to correct these errors which had resulted in the External Auditor asserting that the key driver had been to maintain the reported position as agreed with the Trust's Regulator. During early 2020, the newly appointed Interim Chief Financial Officer had identified a number of other accounting and related issues which would have increased the scale of the 2018/19 deficit, had they been reported in-year. During the latter part of 2020, the Audit Committee had started to hold monthly meetings to monitor the restatement of the 2019/20 accounts, receive updates on the Trust's response to the Statutory Recommendations and reports from the External Auditor on progress of the audit work. The Audit Committee had overseen and endorsed the programme of work for strengthening the finance team and reviewed the lessons learned in respect of addressing internal control and poor practice, and the reasons why staff had not spoken up when they felt they had been told to do something wrong. Recognising the significant changes and improvements that had been achieved, he expressed his thanks and admiration to everyone who had been involved (including the External Auditors) in reaching this point where he was now able to recommend the 2019/20 Annual Report and Accounts for formal Trust Board approval. He provided assurance that the Trust now had all the foundations in place to become a well-run organisation, but he noted that this was still a journey and there was work still to be done to achieve this.

In discussion on the 2019/20 Annual Report and Accounts, the following comments and questions were noted from Trust Board members. During this section of the agenda, the link which was live-streaming the meeting to the external website was interrupted and the meeting was paused briefly to allow for the link to be reconnected:-

- (i) Mr B Patel, Non-Executive Director commented upon the difficult nature of the processes that had been undertaken and he requested some assurance that the relevant lessons had been learned and that safeguards were in place going forwards. In response, the Audit Committee Non-Executive Director Chair confirmed that arrangements were in place to ensure that appropriate practices were followed in future. The Chief Financial Officer added that significant investment had been made in skilled and qualified staff, technical processes and development of a staff culture which would encourage staff to speak out if they had any concerns;
- (ii) Ms V Bailey, Non-Executive Director commented upon the changes in the way that the Trust had been providing care during the last two years during the Covid-19 pandemic and she invited the Acting Chief Nurse and the Medical Director to provide their views on the assurance processes surrounding the quality and safety of patient care;
- (iii) the Medical Director provided his view that patient safety had not been compromised as a result of the financial pressures, adding that a robust process was in place for investigating patient safety incidents and learning from deaths. He also highlighted the benefits of 'Getting it Right First Time' (GIRFT) reviews, CQC inspections, quality accreditation processes, Royal College reviews, the Board Assurance Framework, risk registers and the multiple routes by which staff could raise any concerns. The Quality Committee was given a freedom to probe any issues of concern and clinical staff regularly attended these meetings to present their reports. The regular programme of Executive and Non-Executive Director safety walkabouts was being re-implemented following Covid-19. Appropriate investment in services was being undertaken using a risk-based approach to support the decision making, and
- (iv) the Acting Chief Nurse provided an overview of the bi-annual nursing and midwifery safe staffing reviews, and the Birth-rate Plus reviews, confirming that there had been no disinvestment in the nursing and midwifery workforce and that the workforce headcount was reviewed regularly and aligned with any increases in activity and acuity.

**Resolved** – that (A) the statutory accounts for the year ending 31 March 2020 be approved and adopted, and the relevant certificates be approved for signature as follows (signatories in brackets):-

- (1) Statement of Directors' Responsibilities in respect of Internal Control (*Chief Executive*);
- (2) Annual Governance Statement 2019/20 (*Chief Executive*);
- (3) Directors' Statements – Statement of the Chief Executive's responsibilities as the Accountable Officer of the Trust (*Chief Executive*) and Statement of Directors' Responsibilities in respect of the accounts (*Chief Executive and Chief Financial Officer*);
- (4) Statement of Financial Position (*Chief Executive*);
- (5) Letter of Representation (*Chief Executive*), and

(B) the Annual Report 2019/20 be approved.

**63/22 ANY OTHER BUSINESS**

**Resolved** – that no additional items of business were raised.

**64/22 QUESTIONS AND COMMENTS FROM THE PRESS AND PUBLIC RELATING TO BUSINESS TRANSACTED AT THIS MEETING**

Members of the press and public had been invited to submit any questions relating to the business on the agenda by typing them into the ‘chat’ function of the live-streamed meeting. The following questions were read out and responded to during the meeting:-

**Question 1: Why were these papers only made available to the public shortly before this meeting commenced? The matters set out in papers C1-C4 are of concern to the public and Stakeholders (indicated at the LLR Joint Health Overview and Scrutiny Committee earlier this week).**

In response to question 1, the Director of Corporate and Legal Affairs advised that it was not common practice to publish the Annual Report and Annual Accounts prior to the public Trust Board meeting, so irrespective of the current situation, this seemed the most appropriate course of action.

**Question 2: Do the “intentional misstatements” of financial statements referred to in the independent auditor’s report reflect criminal activity or are such intentional mis-statements not “criminal”?**

In response to question 2, Mr M Williams, Audit Committee Non-Executive Director Chair advised that the Trust did refer this issue to the National NHS Counter Fraud Team very early in the process and they responded with a view that this was not a matter to be investigated by them, so it was not pursued on that basis. Mr Williams also provided his own personal view that this had not been a criminal issue. The External Auditor concurred with these comments.

**Question 3: The independent auditor’s report states that a material uncertainty exists which may cast significant doubt about the Group’s and the Trust’s ability to continue as a going concern. What are the implications of this?**

In response to question 3, the External Auditor advised that all auditors would undertake a review of any organisation’s fundamental financial situation and its ability to continue. The significant deficit incurred by UHL in 2019/20 was required to be reported as a material uncertainty as it was of a scale which a normal organisation would not be able to continue. However, following a review of UHL’s income flows and the surety provided by the Department of Health in respect of the going concern status. Despite this material uncertainty, the External Auditors were satisfied that the Trust remained a going concern and there were no issues which fundamentally impact upon the Trust and its operation.

**Question 4: The success of UHL is essential to the residents of LLR. What are “aggressive” accounting policies adopted by the Board and are they lawful?**

In response to question 4, the Chief Financial Officer commented on the nature of some of the aggressive accounting policies which had included:-

- recognising income and expenditure in the wrong year;
- holding disputed invoices and not recognising them in financial systems;
- not maintaining accurate asset registers resulting in incorrect depreciation charges, and
- control account errors.

The above examples of aggressive accounting policies were all things which wouldn’t be expected to be seen in usual practice, and they fell outside the guidance that accountants operated under. The External Auditor supported these comments, adding that he was satisfied that there was no criminality involved.

Due to the time delay with the live-streaming, a further question was received just as the Chairman was closing the meeting. This question and the associated response was not read out during the meeting but it is provided below for completeness:-

**Question 5: How can early referral to the NHS national fraud team result in a relevant view when the discovery of intentional mis-statement is recent?**

Following the meeting, the Audit Committee Non-Executive Director Chair responded to advise that the External Auditor first raised concerns about intentional misstatement some months ago and it was at that point that the matter was referred to the NHS National Fraud Team. So the discovery is not

recent.

**Resolved** – that the information be noted.

**65/22 DATE OF NEXT TRUST BOARD MEETING**

**Resolved** – that the next virtual public Trust Board meeting be held on Thursday 7 April 2022 from 2.30pm.

The meeting closed at 5.10pm

Kate Rayns  
Corporate and Committee Services Officer

**Cumulative Record of Attendance (2021/22 to date):**

Name	Possible	Actual	% attendance	Name	Possible	Actual	% attendance
J MacDonald (from 19.4.21)	17	17	100	A Haynes (NED from 1.2.22)	4	4	100
K Singh (until 16.4.21)	2	2	100	L Hooper (from 3.2.22)	4	1	25
V Bailey	19	19	100	A Johnson (until 31.1.22)	15	15	100
P Baker (until 30.8.21)	7	6	86	S Lazarus (until 29.10.21)	10	10	100
R Brown	9	7	78	J Melbourne (from 3.2.22)	4	4	100
R Cooper (from 1.11.21 to 31.1.22)	5	5	100	E Meldrum (from 4.11.21)	8	8	100
I Crowe (until 31.1.22)	15	15	100	D Mitchell (until 31.1.22)	15	12	80
C Fox (until 7.10.21)	10	8	80	R Mitchell (from 4.10.21)	10	10	100
A Furlong	18	14	76	B Patel	19	19	100
S Harris (from 1.1.22)	6	5	83	T Robinson (from 1.9.21)	12	9	75
				M Williams	19	16	84

**Non-Voting Members:**

Name	Possible	Actual	% attendance	Name	Possible	Actual	% attendance
A Carruthers	18	15	83	H Kotecha	11	9	82
B Cassidy (from 7.2.22)	2	2	100	I Orrell (until 31.12.21)	14	14	100
G Collins-Punter (from 1.2.22)	4	4	100	J Tyler-Fantom (from 4.11.21)	8	8	100
M Durbridge (from 6.5.21)	16	16	100	S Ward (until 29.7.21)	7	7	100
G George (from 12.7.21)	9	9	100	M Wightman (until 7.10.21)	10	10	100
K Gillatt (until 31.1.22)	15	12	80	J Worrall (from 1.2.22)	4	4	100
A Haynes (from 1.7.21 until 31.1.22)	10	8	80	H Wyton (until 7.10.21)	10	6	60
D Kerr (until 3.2.22)	16	14	88				