



MIAA Insights 23/24

Code of Governance of NHS Provider Trusts

June 2023

Code of Governance for NHS Provider Trusts

1. Introduction & Background

From the 1st April 2023 an updated code of governance (Code) for NHS providers came into force. The Code sets out an overarching framework for corporate governance of both foundation and NHS trusts.

Trusts must comply with each provision of the code or, where appropriate, explain in each case why the trust has departed from the code.

This Insight looks at the results of benchmarking undertaken across MIAA's client base on organisation's approaches to review of the new Codes requirements and their approach to updating key corporate governance documentation.

2. Approach to reflecting the Code in Trust documents

The majority of organisations had either reviewed or were in the process of reviewing their Constitution and Corporate Governance Manual (Standing Orders, Scheme of Reservation & Delegation and Standing Financial Instructions) to ensure the requirements of the Code were adequately reflected.

Most organisations had also undertaken a self-assessment against the Codes requirements and reported the results of this either to the Board or Audit Committee.

3. Review of key documents effected by the Code

Most organisations reviewed their Corporate Governance Manual and Board and committee Terms of Reference at least annually. Constitutions tended to be reviewed when new legislation/codes were released or when internal organisational changes required the Constitution to be amended.

4. Documents impacted by the Code

As highlighted earlier in this Insight key documents impacted by the Code are the Constitution, Corporate Governance Manual and committee Terms of Reference.

In addition, organisations should ensure the following documents/processes are in place and reflect the requirements of the Code:

- Annual/strategic plans
- Board/committee work plans, reporting and minutes
- Annual report and accounts (23/24)
- Freedom to Speak Up policies and procedures
- Workforce and people policies
- Communication and engagement strategies
- Standards of Business Conduct and Conflicts of Interest policies
- Procedures and procedures that support governors
- Fit and proper persons policies and procedures
- Policy for purchasing non-audit services from External Audit.

This Insight provides information to support NHS organisations in reviewing their compliance with the updated Code of Governance for NHS Providers. It is intended to prompt and inform discussions.

1. Has your organisation undertaken a self-assessment against the requirements of the updated Code? Has this been reported to the appropriate committee?
2. If your organisation has undertaken a self-assessment does the document clearly describe why you comply with each element and what evidence you have in place to support compliance?
3. If your self-assessment against the Code has identified areas of non-compliance have actions been clearly identified, allocated to a named lead and deadline to complete required actions agreed? Are action updates monitored by/reported to an appropriate committee?
4. Have you updated the Constitution, Corporate Governance Manual and committee Terms of Reference to reflect the requirements of the Code?
5. Are you assured that the documents/processes highlighted in this Insight comply with the requirements of the Code?

Find out more: If you have any queries or feedback on this briefing, please contact: Sarah Dowbekin, Head of R&D, QA & Professional Standards at MIAA (M: 07788 308 155; E: sarah.dowbekin@miaa.nhs.uk)