

<b>Meeting</b>	<b>11<sup>th</sup> July 2024</b>		<b>Council of Governors</b>			
<b>Report</b>	<b>Agenda item 12a.</b>		<b>Thirlwall Inquiry Progress Update and Police Investigation Update</b>			
<b>Purpose of the Report</b>	Decision		Ratification		Assurance	Information <b>X</b>
<b>Accountable Executives</b>	Karan Wheatcroft			Director of Governance, Risk and Improvement		
<b>Author(s)</b>	Claire Raggett			COCH Thirlwall Inquiry Lead		
<b>Board Assurance Framework</b>	BAF 22	Failure to assure patients and the wider public that the Trust's services are safe, effective, and well led, in light of the Lucy Letby verdicts				
<b>Strategic Aims</b>	SG 1 – Purposeful Leadership					
<b>CQC Domains</b>	Well Led					
<b>Previous Considerations</b>	Updates provided in the Chief Executive Officer's report to Council of Governors meeting – 11 <sup>th</sup> April 2024					
<b>Executive Summary</b>	<p>The purpose of this report is to provide an update on the progress of the work being undertaken by the Trust in response to the Thirlwall Inquiry and an update on police investigations.</p> <p><b>Thirlwall Inquiry</b></p> <ul style="list-style-type: none"> <li>Submitted a significant amount of data by way of disclosure of relevant (or potentially relevant) material.</li> <li>Responded to a number of rule 9 corporate statement requests.</li> <li>Supported the process of dissemination of rule 9 requests from the Inquiry for individual statements from both current and former staff, and signposted both current and former staff to legal support with statement preparation where requested. This process commenced in February 2024 with advance warning letters being shared with all those individuals who the Trust identified as being a potential recipient of a rule 9 request (in view of their role and involvement at the time of the events in 2015/16).</li> <li>Provided legal submissions on the livestreaming of evidence during the Inquiry oral hearings at the Preliminary Hearing which was held on 16<sup>th</sup> May 2024.</li> </ul> <p><b>Police Investigations</b></p> <p>Following a four week trial at Manchester Crown Court, on 2<sup>nd</sup> July 2024 the jury found Lucy Letby guilty of the attempted murder of Baby K.</p> <p>Investigations relating to Lucy Letby's career footprint are ongoing.</p>					

	The investigation into corporate manslaughter at the Countess of Chester Hospital is ongoing.
<b>Highlights</b>	The Trust continues to respond to the requests of the Inquiry and the police investigations.
<b>Recommendation(s)</b>	The Council of Governors is asked to note: <ul style="list-style-type: none"> <li>• The progress of the work undertaken in response to the Thirlwall Inquiry.</li> <li>• The support (legal and pastoral) to both current and former staff.</li> <li>• The ongoing work in relation to the police investigations.</li> </ul>
<b>Corporate Impact Assessment</b>	
<b>Statutory Requirements</b>	Responding to the Public Inquiry under Inquiry's Act 2005
<b>Quality &amp; Safety</b>	Learning from safety incidents during the indictment period
<b>NHS Constitution</b>	Not applicable
<b>Patient Involvement</b>	Not applicable
<b>Risk</b>	Risk regarding failure to assure patient and the wider public that the Trust's services are safe, effective, and well led, in light of the Lucy Letby verdicts included in the BAF
<b>Financial impact</b>	Additional Funding requested from NHSE to support response team
<b>Equality &amp; Diversity</b>	Meets Equality Act 2010 duties & PSED 2 aims and does not directly discriminate against protected characteristics
<b>Communication</b>	Confidential Document not to be shared under FOI legislation

## THIRLWALL INQUIRY PROGRESS UPDATE

### 1. BACKGROUND

Following the Cheshire Police Operation Hummingbird investigation and 10-month trial at Manchester Crown Court, on 21 August 2023, Lucy Letby was sentenced to life imprisonment and a whole life order on each of 7 counts of murder and 7 counts of attempted murder. The offences took place at the Countess of Chester Hospital NHS Foundation Trust.

On 4<sup>th</sup> September 2023 Rt. Hon. Lady Justice Thirlwall was appointed to lead the public inquiry known as the 'Thirlwall Inquiry' and subsequently released the Terms of Reference for the Inquiry on 19<sup>th</sup> October 2023.

On 22<sup>nd</sup> November 2023 Rt. Hon. Lady Justice Thirlwall launched the Thirlwall Inquiry website along with an opening statement. The website is regularly updated and is fully accessible to the public - [The Thirlwall Inquiry | Examining the events at the Countess of Chester Hospital and their implications following the trial, and subsequent convictions, of former neonatal nurse Lucy Letby of murder and attempted murder of babies at the hospital.](#)

The Trust is designated as a core participant of the Thirlwall Inquiry, with Hill Dickinson being the designated legal representatives for the Trust in the Inquiry.

### 2. PURPOSE

The purpose of this paper is to provide an update on the work being undertaken at the Trust in response to the Thirlwall Inquiry and an update on the police investigations.

### 3. THIRLWALL INQUIRY CURRENT POSITION

- **Rule 9 requests**

A rule 9 request is a formal request for information from the Inquiry. It can be a request for documents/information and/or a witness statement. It is called a rule 9 request because it is made under the power set out in rule 9 of The Inquiry Rules 2006. The request is intended to help the Inquiry understand the chronology of the decision-making process and the narrative of how and why key decisions were made so that the Inquiry can investigate issues to fulfil its terms of reference.

Failure to comply with a rule 9 request can lead to a requirement to produce the evidence in question, under the powers set out in section 21 of the Inquiries Act 2005. It is an offence to fail to comply with a section 21 requirement.

The Trust has received a number of rule 9 corporate statement requests from the Thirlwall Inquiry and has provided responses accordingly.

- **Individual statements**

The Thirlwall Inquiry requested that the Trust support the process of obtaining rule 9 individual statements from both current and former staff, including identifying contact details for staff, disseminating rule 9 requests and providing support, where requested, to respond to requests. To

date, rule 9 requests for statements from the Inquiry have been sent to nurses, midwives, doctors, managers, and other staff identified by the Inquiry to receive requests, including former Trust Board members.

Staff are being offered and provided with legal and pastoral support as they complete their statements.

- **Thirlwall Inquiry Preliminary Hearing and Submissions**

Rt. Hon. Lady Justice Thirlwall held the public preliminary hearing of the Thirlwall Inquiry on 16<sup>th</sup> May 2024 at Chester Racecourse.

Core participants to the Inquiry, including the Trust, attended, together with representatives from the press and members of the public. Counsel to the Inquiry updated on the work undertaken so far by the Inquiry and submissions were heard from a number of legal representatives on the transmission or broadcasting of the Inquiry's oral hearings, which are due to commence on 10<sup>th</sup> September 2024 at Liverpool Town Hall.

On the 29<sup>th</sup> May, the Chair of the Inquiry published her decision on livestreaming, with the summary on the Inquiry website as follows:

- *The inquiry will be held in public.*
- *There will be space in the large hearing room at Liverpool Town Hall to accommodate:*
  - members of the public,*
  - accredited media,*
  - all core participants and lawyers who are in attendance,*
  - those parents who wish to attend in person at any time. The room will be configured so that they can see and follow proceedings without being seen by the public.*
- *The proceedings will be transmitted by live links to additional rooms within the building, equipped with screens and audio equipment. These rooms will be designated for the use of parents if required and accredited media respectively.*
- *Live links will also be available, on undertakings, to all core participants, their representatives and accredited media, so that proceedings may be followed at venues remote from the hearing rooms (e.g. solicitors' offices, media organisations' offices within the UK).*
- *Anyone using a live link will be able to see and hear proceedings with no delay on the link. The media may apply to broadcast excerpts from the footage transmitted by live links.*
- *There will be a live transcript of proceedings which will be available to core participants and accredited media. A corrected (and, where necessary, redacted) transcript will be uploaded to the Inquiry website at the end of the day, or as soon as possible after that.*
- *Livestreaming to the world, over which the Inquiry would have no control, will not be permitted.*

- **Expert evidence**

Lady Justice Thirlwall has appointed two expert witnesses to assist with aspects of Part C of the Inquiry's Terms of Reference - Professor Mary Dixon-Woods to report on cultural issues in the NHS and Sir Robert Francis KC to report on the implementation of recommendations made by previous reviews and inquiries into NHS patient care.

The Chair has also instructed Professor John Bowers, an expert in employment law, to report on issues relating to the whistleblowing, disciplinary and grievance procedures at the Countess of Chester Hospital.

#### **4. OTHER INVESTIGATION UPDATES**

- **Operation Hummingbird**

Lucy Letby's appeal hearing took place on 22nd, 23rd and 25th April 2024 in the Court of Appeal in London. The outcome was published on 24<sup>th</sup> May 2024, with the judgement being to refuse her application to appeal.

On 2<sup>nd</sup> July 2024, following a four week retrial at Manchester Crown Court, the jury found Lucy Letby guilty of the attempted murder of Baby K. Sentencing will take place on Friday 5<sup>th</sup> July 2024 at 10.30am at Manchester Crown Court.

The Operation Hummingbird investigations relating to Lucy Letby's career footprint are ongoing. The investigation into Corporate Manslaughter is ongoing.

#### **5. RECOMMENDATIONS**

The Council of Governors is asked to note:

- The progress of the work undertaken in response to the Thirlwall Inquiry.
- The support (legal and pastoral) to both current and former staff.
- The ongoing work in relation to the police investigations.