

NHSI Self Certification Licence Requirements

13 May 2019

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Agenda Item No: 8.2

Trust Board Report

Meeting Date:	13 May 2019
Title:	NHSI Self Certification
Executive Summary:	This paper outlines the required process of self-certification for NHS Trusts for their license to operate.
Action Requested:	For the Board to review the updated evidence for self-assessment and to Approve The self-assessment declaration(s).
For the attention of the Board	This section requires a brief, focussed summary of the points of fact for the Board plus any/all of the following:
Assure	<ul style="list-style-type: none"> The self-assessment update indicates that the Trust continues to meet the declaration requirements.
Advise	<ul style="list-style-type: none"> There remain areas of planned work for future delivery.
Alert	<ul style="list-style-type: none"> No areas of immediate high risk have been identified.
Author + Contact Details:	Kevin Stringer Chief Financial Officer Tel 01902 695954 Email kevin.stringer@nhs.net
Links to Trust Strategic Objectives	<ol style="list-style-type: none"> Create a culture of compassion, safety and quality Proactively seek opportunities to develop our services To have an effective and well integrated local health and care system that operates efficiently Attract, retain and develop our staff, and improve employee engagement Maintain financial health – Appropriate investment to patient services Be in the top 25% of all key performance indicators
Resource Implications:	None
CQC Domains	<p>Safe: patients, staff and the public are protected from abuse and avoidable harm.</p> <p>Effective: care, treatment and support achieves good outcomes, helping people maintain quality of life and is based on the best available evidence.</p> <p>Caring: staff involve and treat everyone with compassion, kindness, dignity and respect.</p> <p>Responsive: services are organised so that they meet people's needs.</p> <p>Well-led: the leadership, management and governance of the organisation make sure it's providing high-quality care that's based around individual needs, that it encourages learning and innovation, and that it promotes an open and fair culture.</p>
Equality and Diversity Impact	No implications identified.
Risks: BAF/ TRR	No new or changed risks identified.
Public or Private:	Public
Other formal bodies involved:	None
References	<p>NHS Provider License February 2013</p> <p>The NHS foundation trust code of governance (July 2014)</p> <p>The well led framework for governance reviews (last updated June 2017)</p> <p>Single Oversight Framework (last updated November 2017)</p> <p>Self-certification: guidance for NHS foundation trust and NHS trusts (updated March 2019)</p>
NHS Constitution:	<p>In determining this matter, the Board should have regard to the Core principles contained in the Constitution of:</p> <ul style="list-style-type: none"> Equality of treatment and access to services High standards of excellence and professionalism Service user preferences Cross community working Best Value Accountability through local influence and scrutiny

Report Details

1	<p>Introduction</p> <p>Prior to the merger of Monitor and TDA each Foundation Trust was required to self-certify against their license terms. From 2017 NHSI now require all NHS Trusts to make a declaration following the instruction from the Secretary of State for Health. This Declaration is based on an update of the declaration review made in June 2018.</p> <p>The two conditions against which Trusts are required to comply are:</p> <p>Condition 1 – G6 (3) The Board takes precautions necessary to comply with the license, NHS Act and NHS Constitution. The Trust Board has previously approved the declaration against Condition G6 for 2018 and is required to self-declare before the 31 May 2019.</p> <p>Condition 2 – FT4 (8) Providers must certify compliance with governance standards and objectives. This is the second condition where the declaration has to be agreed and made by the Trust. The Trust Board has previously approved the declaration against Condition FT4 for 2018 and is required to self-declare before the end of June 2019.</p>
2	<p>Requirements</p> <p>Trusts are required to make two submissions for their Trust Board's approval:</p> <ol style="list-style-type: none">1. By the 31st May 2019 each Trust is required gain Board approval for self-certification against G6 (3). This was done in May 2018.2. By the 30th June 2019 a further declaration for FT4 (8) is required to be approved by the Board. This was done in June 2018. <p>Both declarations must be published on the Trust's webpage by 30th June 2018. There is no requirement for any return to NHSI nor to provide any information with the submission however random audits will be undertaken by NHSI for Trusts to demonstrate their evidence of compliance. Further evidence will be added to the document as it is established.</p> <p>The NHSI guidance on self-certification was updated in March 2019.</p>
3	<p>Summary</p> <p>The Board is asked to consider the attached declarations against each condition and obligation and approve for the Trust to declare compliance with our license conditions.</p>

Declarations required by General condition 6 and Continuity of Service condition 7 of the NHS provider licence

The board are required to respond "Confirmed" or "Not confirmed" to the following statements (please select 'not confirmed' if confirming another option). Explanatory information should be provided where required.

1 & 2 General condition 6 - Systems for compliance with licence conditions (FTs and NHS trusts)

1 Following a review for the purpose of paragraph 2(b) of licence condition G6, the Directors of the Licensee are satisfied that, in the Financial Year most recently ended, the Licensee took all such precautions as were necessary in order to comply with the conditions of the licence, any requirements imposed on it under the NHS Acts and have had regard to the NHS Constitution.

OK

3 Continuity of services condition 7 - Availability of Resources (FTs designated CRS only)

EITHER:

3a After making enquiries the Directors of the Licensee have a reasonable expectation that the Licensee will have the Required Resources available to it after taking account distributions which might reasonably be expected to be declared or paid for the period of 12 months referred to in this certificate.

Please Respond

OR

3b After making enquiries the Directors of the Licensee have a reasonable expectation, subject to what is explained below, that the Licensee will have the Required Resources available to it after taking into account in particular (but without limitation) any distribution which might reasonably be expected to be declared or paid for the period of 12 months referred to in this certificate. However, they would like to draw attention to the following factors (as described in the text box below) which may cast doubt on the ability of the Licensee to provide Commissioner Requested Services.

Please Respond

OR

3c In the opinion of the Directors of the Licensee, the Licensee will not have the Required Resources available to it for the period of 12 months referred to in this certificate.

Please Respond

Statement of main factors taken into account in making the above declaration

In making the above declaration, the main factors which have been taken into account by the Board of Directors are as follows:

[e.g. key risks to delivery of CRS, assets or subcontractors required to deliver CRS, etc.]

Signed on behalf of the board of directors, and, in the case of Foundation Trusts, having regard to the views of the governors

Signature

Signature

Name:

Name:

Capacity:

Capacity:

Date:

Date:

Further explanatory information should be provided below where the Board has been unable to confirm declarations under G6.

Corporate Governance Statement (FTs and NHS trusts)

The Board are required to respond "Confirmed" or "Not confirmed" to the following statements, setting out any risks and mitigating actions planned for each one

Corporate Governance Statement

Response

Risks and Mitigating actions

<p>1 The Board is satisfied that the Licensee applies those principles, systems and standards of good corporate governance which reasonably would be regarded as appropriate for a supplier of health care services to the NHS.</p>	<p>Confirmed</p>	<p>The Trust has had no conditions imposed upon it preventing it from discharging its statutory responsibilities. The Trust was assessed as good in its CQC well led review.</p>
<p>2 The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time</p>	<p>Confirmed</p>	<p>The Board takes account of all appropriate guidance. Standing Orders and Standing Financial Instructions have been reviewed and updated. The Audit Committee has reviewed best practice in the HFMA Audit Committee handbook and taken any action as appropriate.</p>
<p>3 The Board is satisfied that the Licensee has established and implements: (a) Effective board and committee structures; (b) Clear responsibilities for its Board, for committees reporting to the Board and for staff reporting to the Board and those committees; and (c) Clear reporting lines and accountabilities throughout its organisation.</p>	<p>Confirmed</p>	<p>The Board has clear Terms of Reference as detailed in the Trust's Standing Orders. Each of the Sub-Committees has agreed Terms of Reference which are regularly reviewed and each Sub-Committee has a NED chair with NEDs being in the majority in each Committee. The NHS Constitution is considered against each report/paper presented to the Board and its Sub-Committees. Each Sub-Committee monitors compliance against contractual requirements and provides assurance to the Board with identification of risk and mitigation. There are clear responsibilities for Board and Sub-Committees in place with Chairs of Sub-Committees writing regular clear reports (Highlighting key risks/mitigations) as well as minutes of the meetings being received once approved. There are clear reporting lines throughout the organisation with a clear structure in place.</p>
<p>4 The Board is satisfied that the Licensee has established and effectively implements systems and/or processes: (a) To ensure compliance with the Licensee's duty to operate efficiently, economically and effectively; (b) For timely and effective scrutiny and oversight by the Board of the Licensee's operations; (c) To ensure compliance with health care standards binding on the Licensee including but not restricted to standards specified by the Secretary of State, the Care Quality Commission, the NHS Commissioning Board and statutory regulators of health care professions; (d) For effective financial decision-making, management and control (including but not restricted to appropriate systems and/or processes to ensure the Licensee's ability to continue as a going concern); (e) To obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making; (f) To identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence; (g) To generate and monitor delivery of business plans (including any changes to such plans) and to receive internal and where appropriate external assurance on such plans and their delivery; and (h) To ensure compliance with all applicable legal requirements.</p>	<p>Confirmed</p>	<p>The Board is satisfied that:(a) The Trust operates efficiently, economically and effectively and has received an unqualified value for money opinion from its External Auditors (b) Timely and effective operational reports are received and dealt with through the Trust's Sub-Committee structure. (c) The Trust is compliant to the various standards and has no restrictions applied by any of these regulators. (d) The Trust remains a going concern and this is confirmed by External Audit. (e) Timely, upto date, comprehensive information is received by itself and the Sub-Committees. (f) There is a clear Board Assurance Framework and Trust Risk Register in place to identify and manage material risks and compliance. (g) There is regular, timely and comprehensive information on its business plans and contracts. The internal audit provider is external to the Trust and has an annual plan which is reported to the Audit Committee. (h) Complies with its legal requirements.</p>

5 The Board is satisfied that the systems and/or processes referred to in paragraph 4 (above) should include but not be restricted to systems and/or processes to ensure:

- (a) That there is sufficient capability at Board level to provide effective organisational leadership on the quality of care provided;
- (b) That the Board's planning and decision-making processes take timely and appropriate account of quality of care considerations;
- (c) The collection of accurate, comprehensive, timely and up to date information on quality of care;
- (d) That the Board receives and takes into account accurate, comprehensive, timely and up to date information on quality of care;
- (e) That the Licensee, including its Board, actively engages on quality of care with patients, staff and other relevant stakeholders and takes into account as appropriate views and information from these sources; and
- (f) That there is clear accountability for quality of care throughout the Licensee including but not restricted to systems and/or processes for escalating and resolving quality issues including escalating them to the Board where appropriate.

Confirmed

The Trust has sufficient capability at Board level with regard to quality of care with the Executive Directors responsible through the Chief Executive being the Medical Director and Chief Nursing Officer. In addition the recently appointed chair is a General Practitioner by profession. The Trust's vision statement and objectives clearly articulate the focus on quality of care provision. The Trust Board regularly receives patient stories and clinical reports from the lead clinicians such as the Head of Midwifery. The Trust Board receives a monthly update on quality in its Integrated Quality and Performance report and the Quality Governance and Audit Sub-Committee examine and monitor detailed areas for improvement. This integrated approach allows the Board to provide continuous oversight for improving quality of care. The Trust's annual quality account/annual planning processes also ensure that quality of care within the Trust is the fundamental foundation stone upon which the Trust's plans are created.

6 The Board is satisfied that there are systems to ensure that the Licensee has in place personnel on the Board, reporting to the Board and within the rest of the organisation who are sufficient in number and appropriately qualified to ensure compliance with the conditions of its NHS provider licence.

Confirmed

The Board has reviewed its capacity and capability and has declared that the Trust Board has sufficient numbers of Directors and skills. All Directors have complied with their fit and proper persons assessment.

Signed on behalf of the Board of directors, and, in the case of Foundation Trusts, having regard to the views of the governors

Signature

Signature

Name | Professor Steven Field

Name | David Loughton

Further explanatory information should be provided below where the Board has been unable to confirm declarations under FT4.

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