

NHS PROVIDER LICENCE CONDITIONS G6 AND FT4 – SELF CERTIFICATION

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Trust Board paper I

Executive Summary

Context

1. On 30th September 2016, NHS Improvement published the Single Oversight Framework (SOF) which replaced the Monitor Risk Assessment Framework and the Trust Development Authority Accountability Framework from 1st October 2016. The latest version of the SOF was published in November 2017.
2. The SOF bases its oversight on the NHS provider licence. NHS Trusts are therefore legally subject to the equivalent of certain provider licence conditions and NHS Improvement has directed that NHS Trusts must self-certify compliance with Conditions G6 and FT4 respectively.
3. NHS Improvement has provided templates to assist NHS Trusts with the process: these do not need to be returned to NHS Improvement, but from July 2018 NHS Improvement will contact a select number of Trusts to ask for evidence that they have self-certified.
4. Condition G6 is reproduced below:
 1. *“The Licensee shall take all reasonable precautions against the risk of failure to comply with:*
 - (a) *the Conditions of this Licence*
 - (b) *any requirements imposed on it under the NHS Acts, and*
 - (c) *the requirement to have regard to the NHS Constitution in providing health care services for the purposes of the NHS.*
 2. *Without prejudice to the generality of paragraph 1, the steps that the Licensee must take pursuant to that paragraph shall include:*
 - (a) *the establishment and implementation of processes and systems to identify risks and guard against their occurrence; and*
 - (b) *regular review of whether those processes and systems have been implemented and of their effectiveness.*
 3. *Not later than two months from the end of each Financial Year, the Licensee shall prepare and submit to NHS Improvement a certificate to the effect that, following a review for the purpose of paragraph 2(b) the Directors of the Licensee are or are not satisfied, as the cause may be that, in the Financial Year most*

recently ended, the Licensee took all such precautions as were necessary in order to comply with this Condition”.

5. Condition FT4 is reproduced below:

1. *“The Licensee shall apply 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.*

2. *The Licensee shall submit to NHS Improvement within three months of the end of each financial year:*

(a) a corporate governance statement by and on behalf of its Board confirming compliance with this Condition as at the date of the statement and anticipated compliance with this Condition for the next financial year, specifying any risks to compliance with this Condition in the next financial year and any actions it proposes to take to manage such risks”.

6. A copy of the Trust’s proposed declarations is appended to this report for endorsement by the Trust Board. The proposed declarations have been prepared by the Director of Corporate and Legal Affairs and discussed with the Chief Executive and Chairman.

Recommendation

7. The Trust Board is asked to approve the self-certifications attached.

Stephen Ward
Director of Corporate and Legal Affairs

27th April 2018

For Reference

Edit as appropriate:

1. The following **objectives** were considered when preparing this report:

- Safe, high quality, patient centred healthcare [Yes]
- Effective, integrated emergency care [Yes]
- Consistently meeting national access standards [Yes]
- Integrated care in partnership with others [Yes]
- Enhanced delivery in research, innovation & ed' [Yes]
- A caring, professional, engaged workforce [Yes]
- Clinically sustainable services with excellent facilities [Yes]
- Financially sustainable NHS organisation [Yes]
- Enabled by excellent IM&T [Yes]

2. This matter relates to the following **governance** initiatives:

- a. Organisational Risk Register [Not applicable]

If YES please give details of risk ID, risk title and current / target risk ratings.

Datix Risk ID	Operational Risk Title(s) – add new line for each operational risk	Current Rating	Target Rating	CMG
XXXX	There is a risk ...			XX

If NO, why not? Eg. Current Risk Rating is LOW

- b. Board Assurance Framework [Not applicable]

If YES please give details of risk No., risk title and current / target risk ratings.

Principal Risk	Principal Risk Title	Current Rating	Target Rating
No.	There is a risk ...		

3. Related **Patient and Public Involvement** actions taken, or to be taken: [N/A]

4. Results of any **Equality Impact Assessment**, relating to this matter: [N/A]

5. Scheduled date for the **next paper** on this topic: [TBC]

6. Executive Summaries should not exceed **2 pages**. [My paper does comply]

7. Papers should not exceed **7 pages**. [My paper does comply]

G6 Declaration: Required by General Condition 6 of the NHS Provider Licence

1 General condition 6 - Systems for compliance with license 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.

Confirmed

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 Martin Traynor

Name John Adler

Capacity Deputy Chairman

Capacity Chief Executive

Date 3rd May 2018

Date 3rd May 2018

Further explanatory information should be provided below.

- A Whilst reasonable measures were taken to comply with the requirements of NHS Acts and have regard to the NHS Constitution, the Trust failed to achieve the financial plan for 2017/18 and has a deficit financial plan for 2018/19. Additionally, the Trust also failed to achieve a number of NHS Constitution targets for 2017/18. Financial and operational plans for 2018/19 have been approved by the Trust Board.

FT4 Declaration: Corporate Governance Statement

1 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 is satisfied that the corporate governance systems it has in place are appropriate and where further improvement can be made that there is a clear plan for such improvements to be made during 2018/19, having regard to the CQC / NHSI Well Led standards.</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 Trust considers all such guidance from NHS Improvement and implements this accordingly.</p>
<p>3 The Board is satisfied that the Licensee has established and implements:</p> <ul style="list-style-type: none"> (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>Confirmed</p>	<p>The Trust has in place a robust governance framework encapsulating mechanisms to support effective Board and committee structures, with clearly defined responsibilities for the Board and its Committees. Work is in hand to strengthen reporting lines and accountabilities throughout the organisation in 2018/19 via the compilation and promotion of a best practice guide to support the functioning of Clinical Management Groups (CMGs); and to finalise the Trust's Performance Management Framework, defining the governance and escalation arrangements between the CMGs and the Executive Team; and describing the ways in which this system of accountability links to the Executive Boards, Board Committees and Trust Board.</p>
<p>4 The Board is satisfied that the Licensee has established and effectively implements systems and/or processes:</p> <ul style="list-style-type: none"> (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 	<p>Confirmed</p>	<p>Effective systems and processes are in place; however, this does not necessarily mean that all requirements to deliver against targets and other regulatory requirements are being consistently met.</p> <ul style="list-style-type: none"> (a) The Trust's governance processes support the aim of the Trust operating efficiently, economically and effectively as possible. (b) Timely and effective scrutiny and oversight is achieved through the effective operation of the Trust Board and Board Committee governance arrangements.

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.

(c) Appropriate governance structures are in place to support compliance with healthcare standards, in particular through the work of the Executive Quality Board and the Quality and Outcomes Committee.

(d) During 2017/18 there has continued to be a significant focus on financial management and control.

(e) Board and Board Committee governance arrangements within the Trust's governance framework support the timely consideration of information for decision-making.

(f) The Trust's Board Assurance Framework includes the risks to the achievement of the Trust's strategic objectives, including the need to meet regulatory, legal and Commissioner requirements.

(g) The Trust Board approved an Operational Plan for 2017/18 and has approved an Operational Plan for 2018/19. The monitoring against delivery of this plan occurs by the Committees of the Board on a regular basis through the business cycle of reporting and is triangulated by the Internal Audit programme and other mechanisms, including visits to clinical areas, wards and departments.

(h) The Trust is cognisant of the need to comply with legal requirements and any changes in those requirements are considered and policies amended accordingly to ensure continued compliance.

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

Confirmed

The Trust meets each of the requirements, as follows:

(a) Capability at Board has been maintained during the past 12 months with one new Non-Executive Director appointments and substantive appointments having been made recently to three Executive Director posts (each such post having been the subject of formal interim arrangements in the meantime). The Board benefits from a broad range of skills ensuring a balanced approach at the Board and the Committees of Board.

(b) Despite the significant financial challenges and focus on delivering savings, the Trust has an effective Quality Impact Assessment process in place to ensure that quality of care is not compromised in any financial decisions taken.

(c) The Trust reports at all levels within the organisation regarding quality of care, culminating with the submission of detailed

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.

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.

	<p>information to the Trust's Quality and Outcomes Committee and ultimately to Trust Board. Data quality is subject to Internal Audit review with actions taken to meet recommendations.</p> <p>(d) At each Board meeting a report is provided on progress against achieving quality of care standards, with a focus each month on safety, effectiveness, outcomes and experience. Patient and staff stories at monthly Board meetings complement this approach.</p> <p>(e) The Trust has processes in place to ensure the engagement of Patient Partners, staff, patients, carers and other stakeholders in the consideration of quality of care, with various groups established to help meet this objective. An example is the Trust's Quality and Outcomes Committee, which includes a Patient Partner (non-voting) representative and a (non-voting) representative from the lead Clinical Commissioning Group.</p> <p>(f) Through the Trust's changes to its performance management arrangements in 2017/18, accountability has been strengthened at Clinical Management Group levels for all aspects of performance including quality of care. The Trust's Executive Quality Board addresses most such issues at Clinical Management Group level and ensures learning across the Trust, with any significant matters being escalated to the Trust's Quality and Outcomes Committee for Non-Executive Director scrutiny, with escalation to the Board as appropriate.</p>
<p>Confirmed</p>	<p>The Chief Executive and Executive Directors (both voting and non-voting) who report to the Board are suitably qualified, both professionally and through experience. A robust process is in place to ensure compliance with the Fit and Proper Person test.</p>

Signed on behalf of the Board of Directors.

Signature

Signature

Name Martin Traynor

Name John Adler