

Meeting Title	Board of Directors		
Date	9 th May 2019	Agenda item	Bo.5.19.30

Self certification of the Provider Licence

Presented by	Tanya Claridge, Director of Governance and Corporate Affairs	
Author	Tanya Claridge, Director of Governance and Corporate Affairs	
Lead Director	John Holden, Acting Chief Executive	
Purpose of the paper	To provide the proposed content of the self-certification of the Provider Licence to the Board of Directors for approval purposes.	
Key control	Identify if the paper is a key control for the Board Assurance Framework	
Action required	For approval	
Previously discussed at/informed by	Details of any consultation	
Previously approved at:	Committee/Group	Date
	Integrated Governance and Risk Committee	17/4/2019
Key Options, Issues and Risks		
NHS Foundation Trusts are required to self-certify annually whether or not they have complied with the conditions of the NHS provider licence, have the required resources available if providing commissioner requested services, and have complied with governance requirements. The Trust has to self-certify in a number of categories.		
Analysis		
<p>This paper provides a summary of the Provider Licence, the suggested contextual information and sources of assurance for Executive Directors to review and approve.</p> <p>1 & 2 Systems for compliance with licence conditions - in accordance with General condition 6 of the NHS provider licence (Appendixes 1 and 2)</p> <p>3 Availability of resources and accompanying statement - in accordance with Continuity of Services condition 7 of the NHS provider licence (Appendix 3)</p> <p>4 Corporate Governance Statement - in accordance with the Risk Assessment Framework (Appendix 4)</p> <p>5 Certification on AHSCs and governance - in accordance with Appendix E of the Risk Assessment Framework (Appendix 5)</p> <p>6 Certification on training of Governors - in accordance with s151(5) of the Health and Social Care Act (Appendix 6)</p>		
Recommendation		
<p>The Board is asked to review the content and completeness of the assurance associated with the self certification of our compliance with the NHS Provider Licence and approve its submission to NHS Improvement.</p> <p>In relation to appendix 5 (AHSCs and JVs) the Board is asked to decide whether self certification is appropriate and recommend the approach to be taken.</p> <p>The Board is asked to note that the requirement for the self-certification was shared with the Council of Governors on the 18th April 2019 virtually as the meeting was cancelled at short notice as required within the Licensing process and that the assurance related to each condition will be shared with the Council of Governors.</p>		

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Risk assessment						
Strategic Objective	Appetite (G)					
	Avoid	Minimal	Cautious	Open	Seek	Mature
To provide outstanding care for patients			g			
To deliver our financial plan and key performance targets			g			
To be in the top 20% of NHS employers			g			
To be a continually learning organisation				g		
To collaborate effectively with local and regional partners					g	
The level of risk against each objective should be indicated. Where more than one option is available the level of risk of each option against each element should be indicated by numbering each option and showing numbers in the boxes.	Low		Moderate	High	Significant	
	Risk (*)					
Explanation of variance from Board of Directors Agreed General risk appetite (G)						

Benchmarking implications (see section 4 for details)	Yes	No	N/A
Is there Model Hospital data relevant to the content of this paper?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is there any other national benchmarking data relevant to the content of this paper?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Is the Trust an outlier (positive or negative) for any benchmarking data relevant to the content of this paper?	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Risk Implications (see section 5 for details)	Yes	No
Corporate Risk register and/or Board Assurance Framework Amendments	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Quality implications	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Resource implications	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Legal/regulatory implications	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Diversity and Inclusion implications	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Performance implications	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Regulation, Legislation and Compliance relevance
NHS Improvement: (please tick those that are relevant)
<input checked="" type="checkbox"/> Risk Assessment Framework <input checked="" type="checkbox"/> Quality Governance Framework
<input checked="" type="checkbox"/> Code of Governance <input checked="" type="checkbox"/> Annual Reporting Manual
Care Quality Commission Domain: Well Led
Care Quality Commission Fundamental Standard: Good Governance
NHS Improvement Effective Use of Resources

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Other (please state):

**Relevance to other Board of Director's Committee:
(please select all that apply)**

Workforce	Quality	Finance & Performance	Partnerships	Major Projects	Other (please state)
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

1 PURPOSE/ AIM

The purpose of this paper is to provide the proposed content of the self-certification of the Provider Licence to the Board of Directors for the purpose of approval.

2 BACKGROUND/CONTEXT

NHS Foundation Trusts are required to self-certify annually whether or not they have complied with the conditions of the NHS provider licence (which itself includes requirements to comply with the National Health Service Act 2006, the Health and Social Care Act 2008, the Health Act 2009, and the Health and Social Care Act 2012, and have regard to the NHS Constitution), have the required resources available if providing commissioner requested services, and have complied with governance requirements.

In addition, NHS Improvement requires the Trust to make a number of governance declarations which are certified by the Board of Directors. These relate to the following conditions of the licence:

- Condition GS6(3)** Providers must certify that their Board has taken all precautions necessary to comply with the licence, NHS Act and NHS Constitution. The Foundation Trust is specifically required to publish the declaration for this condition.
- Condition FT4(8)** Providers must certify compliance with required governance standards and objectives.
- Section 151(5) of the Health and Social Care Act 2012 Training of Governors** Providers must review whether their governors have received enough training and guidance to carry out their roles. It is up to providers how they do this.
- Conditions to support continuity of service (CoS7):** allows NHS Improvement to assess whether there is a risk to services and to set out how services will be protected if a provider gets into financial difficulty

NHS Improvement do not require any formal submission however will carry out spot checks to ensure that Boards have self-assessed and published details of their self-assessment

3 ASSURANCE

The provider licence is split into six sections, which apply to different types of providers:

- General conditions (G): general requirements applying to all licensed providers.
- Obligations about pricing (F): obliges providers to record pricing information, check data for accuracy and, where required, charge commissioners in line with tariff. Applies to all licensed providers who provide services covered by national tariff.

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3. Obligations around choice and competition (C): obliges providers to help patients make the right choice of provider, where appropriate, and prohibits anti-competitive behaviour where against patients' interests. This applies to all licensed providers.
4. Obligations to enable integrated care (IC): enables the provision of integrated services and applies to all licensed providers.
5. Conditions to support continuity of service (CoS): allows NHS Improvement to assess whether there is a risk to services and to set out how services will be protected if a provider gets into financial difficulty. Applies to providers of commissioner requested services (CRS) only.
6. Governance licence conditions for Foundation Trusts (FT): provides obligations for Foundation Trusts around appropriate standards of governance. These conditions apply to Foundation Trusts only.

The attached paper (appendix 1: NHS provider licence conditions) has been written to provide a portfolio of the evidence to enable the Trust Board of Directors to consider approving the self –certification that the Trust meets the conditions of its Licence and identifies potential areas of risk proportionately and appropriately.

The attached paper (appendix 2: Compliance Statement) sets out statements that Trust Board is required to make provide assurance to support the self-certification against the conditions related to Governance. From the assurance provided, the Trust Board of Directors is required to certify that they are satisfied with the risks and mitigating actions against each area of the required areas within the Corporate Governance Statement.

The attached paper (appendix 3: Availability of Resources) sets out a statement that the Trust Board of Directors is required to make provide assurance to support the self-certification against the condition related to availability of resources. From the assurance provided, the Trust Board of Directors is required to certify that they are satisfied with any risks and mitigating action described.

The attached paper (appendix 4: Corporate Governance Statement) sets out the declarations that are required in relation to the Risk Assessment Framework.

The attached paper (appendix 5: Certification on AHSCs and governance) provides information as required in accordance with Appendix E of the Risk Assessment Framework.

The attached paper (appendix 6: Governors Training) provides assurance that the Foundation Trust's Governors have received enough training and guidance to carry out their roles as required in Section 151(5) of the Health and Social Care Act 2012.

4 BENCHMARKING IMPLICATIONS

Not relevant to the contents of this paper.

5 RISK ASSESSMENT

There have been no risks identified in relation to compliance with the Foundation Trust's licensing conditions.

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6 RECOMMENDATIONS

The Board of Directors is required to make the following declarations:

Condition GS6(3) Providers must certify that their Board has taken all precautions necessary to comply with the licence, NHS Act and NHS Constitution.

From the assurance provided the Trust Board of Directors is required to certify that it “is satisfied that, during the financial year most recently ended, it has taken all precautions necessary to comply with the licence, NHS Act and NHS Constitution.”

Condition FT4(8) Providers must certify compliance with required governance standards and objectives

From the assurance provided the Trust Board of Directors is required to certify that it “is satisfied that, during the financial year most recently ended, that the Foundation Trust is compliant with relevant governance standards.”

Conditions to support continuity of service (CoS7)

From the assurance provided the Trust Board of Directors is required to certify that it is satisfied that, during the financial year most recently ended, the Trust has acted in a way that secures access to the resources needed to operate Commissioner Requested Services.

Section 151(5) of the Health and Social Care Act 2012 Training of Governors

From the assurance provided the Trust Board is required to certify that it “is satisfied that, during the financial year most recently ended, the Trust has provided necessary training to its governors, as required by S151(5) of the Health and Social Care Act, to ensure they are equipped with the skills and knowledge they need to undertake their role.”

It is recommended that the Board of Directors reviews the evidence provided in this paper and approves the content of the Provider Licence Self Certification and approves its submission to NHS Improvement.

7 Appendices

- Appendix 1: NHS provider licence conditions
- Appendix 2: Compliance Statement
- Appendix 3: Availability of Resources
- Appendix 4: Corporate Governance Statement
- Appendix 5: AHSCs and Governance
- Appendix 4: Governors' Training