

Meeting Title	Board of Directors		
Date	20 May 2021	Agenda item	B.o.5.21.16

Self-certification with regard to the Provider Licence

Presented by	John Holden, Director of Strategy and Integration	
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Lead Director	John Holden, Director of Strategy and Integration	
Purpose of the paper	To provide the proposed content of the self-certification of the Provider Licence to the Board of Directors for approval.	
Key control	Board Assurance Framework	
Action required	For approval	
Previously discussed at/ informed by	Executive Management Team	
Previously approved at:	Committee/Group	Date
	Executive Management Team	10 May 2021
Key Options, Issues and Risks		
<p>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). The Trust is also required to self-certify that it has the required resources available if providing Commissioner Requested Services, and that it has complied with governance requirements.</p> <p>In addition, NHS Improvement requires the Trust to make a number of governance declarations which are certified by the Board of Directors. These declarations relate to the following conditions of the licence:</p> <ol style="list-style-type: none">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. <p><i>NHS Improvement does not require any formal submission to NHSI however, they have stated that they will carry out spot checks to ensure that Boards have self-assessed and published details of their self-assessment.</i></p> <p>This paper provides a summary of the Provider Licence, the contextual information and sources of assurance for Executive Directors to review and confirm. These documents are presented as</p>		

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follows:

- The Provider Licence Conditions (attached at Appendix 1)
- BTHFT compliance with the Provider Licence Conditions (attached at Appendix 2)
- Certification on Training of Governors in accordance with s151(5) of the Health and Social Care Act 2012 (attached at Appendix 3)
- Statements required to be confirmed by Board and published by the Trust (Appendix 4)

The Board will be required to provide a specific declaration with regard to Condition FT4(8) of the provider licence in the form of a 'Corporate Governance Statement' as prescribed within appendix F of the 'Monitor Risk Assessment Framework'. To support the self-certification against Condition FT4(8), the Board of Directors will be required to certify that they are satisfied with the risks and mitigating actions against each area listed. The Corporate Governance Statement is not presented here for review due to the interdependencies with regard to statements confirmed within the Annual Report and the Annual Governance Statement 2020/21. The Corporate Governance Statement will be presented to the Executives for review and executive sign-off during the week commencing 31 May 2021 and to the Audit Committee on 8 June 2021. The finalised statement will be presented to Board for approval on 10 June 2021.

Recommendation

The Board is asked to:

1. Approve the self-certification against the conditions provided by the Trust in relation the Provider Licence Conditions (Appendix 2).
2. Confirm 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 Board 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."
 - **Conditions to support continuity of service (CoS7)**
From the assurance provided the Board 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 (Appendix 3)**
From the assurance provided the 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."

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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 type="checkbox"/>	<input checked="" type="checkbox"/>
Is there any other national benchmarking data relevant to the content of this paper?	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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 type="checkbox"/> Risk Assessment Framework <input type="checkbox"/> Quality Governance Framework <input checked="" type="checkbox"/> Code of Governance <input type="checkbox"/> Annual Reporting Manual
Care Quality Commission Domain: Well Led
Care Quality Commission Fundamental Standard: Good Governance
NHS Improvement Effective Use of Resources: N/A
Other (please state):

Relevance to other Board of Director's academies: (please select all that apply)			
People	Quality	Finance & Performance	Other
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>