

**Extract from Turst Board Minutes (25 May 2017)**

**C/17/70**

**Annual Board Governance Declaration**

Jayne Deaville reminded Board members that Foundation Trusts were required to make declarations about compliance with license conditions and the continuity of service condition 7 (Availability of Resources) with deadlines of 31 May 2017 and 30 June 2017. She advised that NHS Improvement now required Trusts to self-certify and that there would be spot audits of individual Trusts to ensure that the self-certification was appropriate. She advised that the declarations had been checked and updated to include additional evidence of compliance. The annual governance statements were formally approved for inclusion on the Trust website by the due deadlines.

## Board Governance Declarations

1. The Declarations to be made by the 31 May are as follows:

	General condition 6 - Systems for compliance with license conditions
1	Following a review for the purpose of paragraph 2(b) of licence condition G6, the Directors of the Licensee are satisfied, as the case may be 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.
2	The board declares that the Licensee continues to meet the criteria for holding a licence.
<p>License Condition G6 is that the Trust has Systems for compliance with licence conditions and related obligations. Paragraph 2(a) requires the establishment and implementation of processes and systems to identify risks and guard against their occurrence. Paragraph 2(b) then requires that there be a regular review of whether those processes and systems have been implemented and of their effectiveness.</p>	
	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.
	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.
	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.

2. With regard to Licence Condition G6, the Trust undertook a review of the impacts of all licence conditions and this was reported to the Board of Directors to provide

assurance that systems and processes were in place to provide assurance that the licence conditions were and would continue to be met. Alignment to the Trust's Risk Register and Assurance Plan were reviewed to ensure that all risks were identified and appropriately mitigated at this time. As part of this paper, an update review of the licence conditions has been undertaken and is included as appendix 1 to this report to provide further assurance of ongoing compliance.

With regard to Continuity of services condition 7 – Availability of Resources the Trust has agreed a financial plan that is both in surplus and meets the control total. The Trust has therefore considered beyond the 12-month period required in this declaration and therefore meets the requirement of 3a.

3. The foregoing enables the Trust to confirm that it is able to make the declarations required by 31 May.
4. In respect of the June submission the source of the required declarations are as follows:
5. Corporate Governance Statement in accordance with Foundation Trust condition 4.
6. Certification on Training of Governors – in accordance with s 151(5) of the Health and Social Care Act

FT4	Corporate Governance Statement
4.1	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.
<b>Response</b>	An annual self-assessment is completed against the NHS Improvement (Monitor) Code of Governance for NHS Foundation Trusts confirming compliance. During 2015, this was externally validated through a governance review against NHS Improvement (Monitor)'s Well Led Framework. The 2016 annual self-assessment reflected no change in compliance against the Code from the previous year.
4.2	The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time
<b>Response</b>	An annual self-assessment is completed against the NHS Improvement (Monitor) Code of Governance for NHS Foundation Trusts confirming compliance. During 2015, this was externally validated through a governance review against NHS Improvement (Monitor)'s Well Led Framework. The 2016 annual self-assessment reflected no change in compliance against the Code from the previous year.

4.3	<p>The Board is satisfied that the Trust implements:</p> <ul style="list-style-type: none"> <li>a) Effective board and committee structures;</li> <li>b) Clear responsibilities for its Board, for committees reporting to the Board and for staff reporting to the Board and those committees; and</li> <li>c) Clear reporting lines and accountabilities throughout its organisation.</li> </ul>
<b>Response:</b>	<p>A Board governance review is undertaken annually. This was completed in July 2016 and was reported to the Board in November 2016.</p>
4.4	<p>The Board is satisfied that the Licensee effectively implements systems and/or processes:</p> <ul style="list-style-type: none"> <li>a) To ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;</li> <li>b) For timely and effective scrutiny and oversight by the Board of the Licensee's operations;</li> <li>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;</li> <li>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);</li> <li>e) To obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;</li> <li>f) To identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence;</li> <li>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</li> <li>h) To ensure compliance with all applicable legal requirements.</li> </ul>
<b>Response:</b>	<p>Internal governance arrangements in place to ensure monitoring and compliance including:</p> <ul style="list-style-type: none"> <li>• Board committee minutes, summary reports and terms of reference.</li> <li>• Board agenda planning processes.</li> <li>• Trust Assurance Reports</li> <li>• Integrated governance framework</li> <li>• Internal Audit review of directorate governance</li> </ul>

4.5	<p>The Board is satisfied that the systems and/or processes referred to in paragraph 5 should include but not be restricted to systems and/or processes to ensure:</p> <ol style="list-style-type: none"> <li>a) That there is sufficient capability at Board level to provide effective organisational leadership on the quality of care provided;</li> <li>b) That the Board's planning and decision-making processes take timely and appropriate account of quality of care considerations;</li> <li>c) The collection of accurate, comprehensive, timely and up to date information on quality of care;</li> <li>d) That the Board receives and takes into account accurate, comprehensive, timely and up to date information on quality of care;</li> <li>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</li> <li>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.</li> </ol>
<b>Response:</b>	<ul style="list-style-type: none"> <li>• Executive lead for quality and clinical performance, supported by Medical Director and Director of Nursing</li> <li>• Non-Executive Lead for quality</li> <li>• Board Development programme and training</li> <li>• Process for quality impact assessing cost improvement programmes and other financial decision making</li> <li>• Self-assessment against Quality Governance Framework completed in 2015.</li> <li>• Board committee structure and terms of reference</li> <li>• Trust Assurance Reports</li> <li>• Service User and Carer involvement and experience quarterly reports</li> </ul>
4.6	<p>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>
<b>Response:</b>	<ul style="list-style-type: none"> <li>• Remuneration and Nominations Committee systems and processes</li> <li>• Annual Board appraisal arrangements</li> <li>• Board Development programme</li> <li>• Externally facilitated governance reviews Compliance with the Fit and Proper Persons Regulations and NHS Guidance on Managing Conflicts of Interest in the NHS.</li> </ul>
5 (2)	Training of Governors

	<p>The Board is satisfied that during the financial year most recently ended the Licensee has provided the necessary training to its Governors, as required in 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.</p>
<p><b>Response:</b></p>	<ul style="list-style-type: none"> <li>• In addition to the Governors having access to training offered by the Trust for trust staff, the Trust provides an extended training and development plan designed specifically for Governors, which complements the areas covered during an extensive governor induction programme.</li> <li>• During 2016 training has been offered to Governors in many areas such as financial management, assurance, commercial development and strategic direction, media engagement, PALS, Quality and Performance, Quality accounts, Quality Assurance Visits and the CQC, in addition to a joint development session and meeting held in June 2016 with the Board of Directors.</li> <li>• In addition, Governors are offered external training and development by attending network meetings and the Govern Well Programme facilitated by NHS Providers.</li> </ul>

## Appendix 1: NHS Improvement (Monitor) NHS Improvement (NHS Improvement (Monitor)) Provider Licence: Review of Trust Compliance

Section	Overview	Lead	Requirement	NHS Improvement (Monitor)ing/Review 2017/18
1. General Conditions	General Condition 1: (Provision of Information)	JD	This condition contains an obligation for all licensees to provide NHS Improvement (Monitor) with any information required for their licensing functions.	All requests complied with within deadline
	General Condition 2 (Publication of Information)	JD	Obliges licensees to publish such information as NHS Improvement (Monitor) may require	All required information published
	General Condition 3 (Payment of Fees to NHS Improvement (Monitor))	JD	The Act gives NHS Improvement (Monitor) the ability to charge fees and this condition obliges licence holders to pay fees to NHS Improvement (Monitor) if requested.	Compliant
	General Condition 4 (Fit and Proper Persons)	JL	This licence condition prevents licensees from allowing unfit persons to become or continue as governors or directors (or those performing similar or equivalent functions). At NHS Improvement (Monitor)'s discretion, this test may be relaxed in exceptional circumstances.	Requirements of the Fit and Proper Persons Regulations have been implemented by the Trust Board
	General Condition 5 (NHS Improvement (Monitor) Guidance)	JD	This requires licensees to have regard to any guidance that NHS Improvement (Monitor) issues.	Compliant
	General Condition 6 (Systems for Compliance with Licence Conditions and Related Obligations)	JD	This requires providers to take all reasonable precautions against the risk of failure to comply with the licence and other important requirements.	Reflected in the Trust Risk Register and Assurance Plan
	General Condition 7 (Registration with the Care Quality Commission)	TM	This requires providers to be registered with the CQC (if required to do so by law) and to notify us if their registration is cancelled.	The Trust is registered with the CQC
	General Condition 8 (Patient Eligibility and Selection Criteria)	TM	This condition requires licence holders to set transparent eligibility and selection criteria for patients and to apply these in a transparent manner.	Compliant
	General Condition 9 (Application of Section 5)	All	This applies to all licence holders. It sets out the conditions under which a service will be designated as	Compliant

Section	Overview	Lead	Requirement	NHS Improvement (Monitor)ing/Review 2017/18
	(Continuity of Services)		a Commissioner Requested Service. If a licensee provides any Commissioner Requested Services, all the Continuity of Services Conditions apply to the licence holder.	
2. Obligations about pricing  Note: at present applies only to those on national tariff	Pricing Condition 1 (Recording of Information)	JD	Under this licence condition, NHS Improvement (Monitor) may oblige licensees to record information, particularly information about their costs, in line with guidance to be published by NHS Improvement (Monitor).	Compliant
	Pricing Condition 2 (Provision of Information)	JD	Having recorded the information in line with Pricing condition 1 above, licensees can then be required to submit this information to NHS Improvement (Monitor).	Compliant
	Pricing Condition 3 (Assurance Report on Submissions to NHS Improvement (Monitor))	JD	When collecting information for price setting, it will be important that the submitted information is accurate. This condition allows NHS Improvement (Monitor) to oblige licensees to submit an assurance report confirming that the information they have provided is accurate.	Compliant
	Pricing Condition 4 (Compliance with the National Tariff)	JD	The Health and Social Care Act 2012 requires commissioners to pay providers a price which complies with, or is determined in accordance with, the National Tariff for NHS health care services. This licence condition imposes a similar obligation on licensees, i.e. the obligation to charge for NHS health care services in line with the National Tariff.	Not arisen for tariff services.
	Pricing Condition 5 (Constructive Engagement Concerning Local Tariff Modifications)	JD	The Act allows for local modifications to prices. This licence condition requires licence holders to engage constructively with commissioners, and to try to reach agreement locally, before applying to NHS Improvement (Monitor) for a modification.	Compliant
3. Obligations around choice and competition	Choice and Competition Condition 1 (Patient Choice)	SG	This condition protects patients' rights to choose between providers by obliging providers to make information available and act in a fair way where patients have a choice of provider. This condition applies wherever patients have a choice of provider under the NHS Constitution, or where a choice has been conferred locally by commissioners.	Compliant
	Choice and Competition Condition 2 (Competition)	SG	This condition prevents providers from entering into or maintaining agreements that have the object or effect of	Compliant

Section	Overview	Lead	Requirement	NHS Improvement (Monitor)ing/Review 2017/18
	Oversight)		preventing, restricting or distorting competition to the extent that it is against the interests of health care users. It also prohibits licensees from engaging in other conduct that has the effect of preventing, restricting or distorting competition to the extent that it is against the interests of health care users.	
4. Obligations to enable integrated care	The Integrated Care Condition is a broadly defined prohibition: the licensee shall not do anything that could reasonably be regarded as detrimental to enabling integrated care.	TM	It also includes a patient interest test. The patient interest test means that the obligations only apply to the extent that they are in the interests of people who use health care services.	Compliant
5. Conditions to support continuity of service (CoS)	General Condition 9 (Application of Section 5 (Continuity of Services))	TM	This condition applies to all licensees. It sets out how services may be designated as Commissioner Requested Services. If a licensee provides Commissioner Requested Services, the Continuity of Services Conditions apply.	Compliant
	Continuity of Services Condition 1 (Continuing Provision of Commissioner Requested Services)	JD	This condition prevents licensees from ceasing to provide Commissioner Requested Services, or from changing the way in which they provide Commissioner Requested Services, without the agreement of relevant commissioners.	Compliant
	Continuity of Services Condition 2 (Restriction on the Disposal of Assets)	JD SG	This licence condition ensures that licensees keep an up-to-date register of relevant assets used in the provision of Commissioner Requested Services. It also creates a requirement for licensees to obtain NHS Improvement (Monitor)'s consent before disposing of these assets when NHS Improvement (Monitor) is concerned about the ability of the licensee to carry on as a going concern.	Compliant
	Continuity of Services Condition 3 (NHS Improvement (Monitor) Risk Rating)	JD JL	This condition requires licensees to have due regard to adequate standards of corporate governance and financial management	Compliant
	Continuity of Services Condition 4 (Undertaking from the Ultimate Controller)	JD	This condition requires licensees to put in place a legally enforceable agreement with their 'ultimate controller' to stop ultimate controllers from taking any action that would cause	Not applicable

Section	Overview	Lead	Requirement	NHS Improvement (Monitor)ing/Review 2017/18
			licensees to breach the licence conditions. This condition specifies who is considered to be an ultimate controller.	
	Continuity of Services Condition 5 (Risk Pool Levy)	JD	This licence condition obliges licensees to contribute, if required, towards the funding of the "risk pool" - this is like an insurance mechanism to pay for vital services if a provider fails.	Compliant
	Continuity of Services Condition 6 (Cooperation In The Event Of Financial Stress)	JD	This licence condition applies when a licensee fails a test of sound finances, and obliges the licensee to cooperate with NHS Improvement (Monitor) in these circumstances.	Not applicable
	Continuity of Services Condition 7 (Availability Of Resources)	JD	This condition requires licensees to act in a way that secures access to the resources needed to operate Commissioner Requested Services.	Compliant
6. Governance licence conditions for foundation trusts	NHS Foundation Trust Condition 1 (Information To Update the Register of NHS Foundation Trusts)	JD	This licence condition ensures that NHS foundation trusts provide required documentation to NHS Improvement (Monitor).	Compliant
	NHS Foundation Trust Condition 2 (Payment to NHS Improvement (Monitor) in Respect of Registration and Related Costs)	JD	If NHS Improvement (Monitor) moves to funding by collecting fees, we may need this licence condition to charge additional fees to NHS foundation trusts to recover the costs of registration. We would consult stakeholders before introducing such a fee.	Not applicable
	NHS Foundation Trust Condition 3 (Provision of Information to Advisory Panel)	JL	The Act gives NHS Improvement (Monitor) the ability to establish an advisory panel that will consider questions brought by governors. It is NHS Improvement (Monitor)'s current intention to establish this panel. This licence condition requires NHS foundation trusts to provide the information requested by an advisory panel.	Not applicable: during 2016, the Monitor Panel has been dis-established by NHSI
	NHS Foundation Trust Condition 4 (NHS Foundation Trust Governance Arrangements)	JD JL	This condition will enable NHS Improvement (Monitor) to continue oversight of governance of NHS foundation trusts.	Compliant