

Approved at Board of Directors meeting held 10 June 2021
Approved at Council of Governors meeting held 18 June 2021

NHS Provider Licence Self-Certification

Report to Board of Directors on 10th June 2021

1 EXECUTIVE SUMMARY

- 1.1 The Board is required to make a number of declarations at the year- end. In respect of its annual plan the self-certification set out below is required.

The Declarations are required by NHSI/E but do not need to be submitted unless specifically requested by them. However, the declarations in respect of conditions 6 and 7 must be signed off by 31st May and the declaration in respect of condition 6 must be published by 30th June.

- 1.2 The options available are “confirmed” or “not confirmed,” having considered the views of the Council of Governors. If the declaration is not confirmed the Trust are invited to provide summary explanatory information.

2 BACKGROUND INFORMATION

2.1 Declaration 1:

General Condition 6 - Systems for compliance with license conditions (FTs and NHS trusts)

The Board is required to confirm it is compliant with the following certification, or explain why it can't certify itself as compliant.

Following a review for the purpose of paragraph 2(b) of license 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 license, any requirements imposed on it under the NHS Acts and have had regard to the NHS Constitution.

It is recommended that a “not confirmed” declaration is made.

The Trust has entered into enforcement undertakings that acknowledge that it is in breach of its license conditions. The undertakings entered into by the Trust are set out a letter signed by the Trust and NHSI/E in February 2020. In summary, the Trust received a Section 31 notice arising from the CQC inspection between January and February 2019 and a further Section 31 notice from the CQC in July 2019. Following a CQC inspection in January and February 2019, the Trust was rated by the CQC overall as “Requires Improvement.” However, urgent and emergency care was rated as “inadequate” in the safe domain but overall Requires Improvement. Diagnostic imaging was additionally rated as “inadequate” at service level, and on both the safe and well led domains. The Trust was rated “Requires Improvement” in the Well Led

inspection. The CQC issued three Section 31 notices in July 2019 concerning triage performance, escalation, and management of patients with Sepsis or a deteriorating medical condition, and the number of registered nurses available at all times within the Emergency Department.

The Trust has implemented a number of measures in response to these findings including the introduction of digital dashboards to monitor performance and periodic audits of practice. The Trust sepsis data demonstrates that the Trust is now performing at target and in excess of the national average. Nurse staffing has been reviewed by the chief nurse and safe staffing is reported to the Board of Directors as part of the chief nurse monthly report.

As a consequence of these improvements in June 2020 two of the three notices were withdrawn (escalation and management of sepsis and the number of registered nurses in the Emergency Department).

The CQC undertook a Focussed Inspection of the Emergency Department in February 2021 which resulted in the following conclusions:

- Improvements had been made to safety and culture within the emergency department
- Critically ill patients were assessed as directed by national guidelines.
- Staff followed Personal Protective Equipment (PPE) recommendations and appropriate infection prevention and control (IPC) pathways were in place and flexed to reduce the risk of COVID-19 nosocomial infections.
- Staff told the CQC that they were supported well by managers and senior leaders.

The CQC also advised the Trust that areas to improve were:

- The Trust should continue to work towards achieving improvements in staff compliance with safeguarding training.
- The Trust should consider implementing a system that includes visual prompts at red area access points to remind staff of the PPE requirements before entering these areas.
- The Trust should consider how to make children, young people, and their relatives aware of social distancing requirements within the children's ED.
- The Trust should continue to work with the wider health and social care system to improve flow from the ED to speciality wards.
- The Trust should consider taking a more proactive and integrated approach with regards to the assessment and management of the risks associated with ambulance offload delays.

All of these recommendations have been or are in the process of being addressed.

As a result of the inspection the CCQ have improved the rating in safe domain from “inadequate” to “requires improvement” and have removed the remaining condition of registration concerning triage performance.

In addition, in relation to operational performance the Undertakings cite delivery against the four hour emergency care standard, the 62 day cancer standard, and the diagnostic standard.

The Trust has requested that NHSI/E consider discharging some or all of the undertakings on the basis that;

- All three Section 31 notices previously imposed by the CQC have been removed during the financial year.
- The Trust has satisfied the financial undertakings which were time limited to the 2019/20 financial year.
- The Trust has, for much of the preceding twelve months directed substantial resources and capacity to addressing the COVID-19 pandemic. As a consequence, the inability to recover operational performance to meet national standards is common to all acute providers in the current circumstances. The Trust has a credible Restoration and Recovery plan and benchmarks well with other system providers.

However, the Trust’s self –assessment score reflects the fact that at the date of this assessment, the Trust remains subject to undertakings in relation to actual or suspected breaches of its licence conditions.

Continuity of service condition 7 – Availability of Resources

The Board is required to make one of the following three declarations¹

1a. After making enquiries the Directors of the Licensee have reasonable expectations 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.

1b. After making enquires the Directors of the Licensee have a reasonable expectation, subject to what is explained below, that the Licensee will have the Required Resources² available to it after taking account in particular (but without limitation) and 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 in section 3 below) which may cast doubt on the ability of the Licensee to provide Commissioner Requested services

1c. 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.

¹ The period of 12 months, is the 12 months from the date of the certificate

² Required Resources include: management resources, financial resources and facilities, personnel, physical and relevant asset guidance.

It is recommended that 1b declaration be made with the following factors taken into account reflective of the uncertainties of the financial regime for the remainder of 2021/2022. The Trust awaits confirmation of allocations and planning guidance from October 2021, which has not yet been set by NHSEI.

2.2 Declaration 2:

Condition FT4 - Corporate Governance Statement

The Board is required to indicate it is compliant with the following statements, or if not, state why it is non-compliant. In addition, the Board is invited to identify any risks and mitigating actions in relation to each of the statements.

1) The Board is satisfied that the Trust 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.

It is recommended that a “confirmed” declaration is made as the Board is assured from the work of the Audit Committee, its Internal and External Auditors and their opinions received during the year.

2) The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time.

It is recommended that a “confirmed” declaration is made as the Trust Board Secretary has made the Board, Audit Committee and Executives aware of NHSI/E guidance and any impact/ improvements to be made within Trust systems as a result.

3) The Board is satisfied that the Trust 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.

It is recommended that a “confirmed” declaration is made.

The Board has an established committee system. The work plans of each committee have been reviewed during the year and the exception reporting introduced for each Committee up to the Board is working effectively. A committee effectiveness review has been undertaken in respect of each committee and a review of review of terms of reference and workplans has also been undertaken.

4) The Board is satisfied that the Trust 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.

It is recommended that a "not confirmed" declaration is made.

The Trust is not currently compliant with paragraph 4c by virtue of the Enforcement Undertakings referred to above.

In respect of the other measures in Condition FT4 the Board has both directly and through its Committee structure been assured that the Trust's designed systems of internal control have been operating effectively and as intended over the year. Where issues have arisen during the year timely actions have been implemented to improve these areas. Assurance is routinely and regularly obtained as to the quality of the data supporting the Trust's performance reporting and decisions being taken and improvements have been introduced through the adoption of Statistical Process Control (SPC) reporting. The Board has commenced a review of the Trust Strategy and expects to complete this and implement the new strategy early in 2021/22. Key risks and associated assurance has been reported to the Audit Committee and Board during the year and the process has been subject to Internal Audit review which concluded {positively} over the Trust corporate risk and assurance processes.

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 Trust, 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 Trust including but not restricted to systems and/or processes for escalating and resolving quality issues including escalating them to the Board where appropriate.

It is recommended that a "confirmed" declaration is made as there is clear leadership and accountability for the delivery of high quality and safe services within the Trust. The Board both directly, and through its Committee structures, ensures that a focus is maintained on the delivery of quality services. The Trust's Quality Priorities continue to be set in consultation with the Council of Governors and other stakeholders with regular reporting of the delivery against these priorities provided to the Board and the Council of Governors and our Commissioners.

6) The Board is satisfied that there are systems to ensure that the Trust 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.

It is recommended that a "confirmed" declaration is made. The Trust has undertaken performance reviews and 360-degree appraisals with all directors. In addition, it has reviewed the skills and experience of its Non-Executive Directors and considered this against committee membership and other portfolio responsibilities. The Trust has also established a process that ensures that all Board Members are "fit and proper" persons. The Board through its Workforce and Staff Engagement Committee has been assured over the actions being taken to mitigate the workforce risks in relation to recruitment and retention. Regular reporting is provided to the Board on the Trust's compliance with the nursing safer staffing levels and the revalidation of its nursing and medical workforce.

2.3 Declaration 3: Training of Governors

The Board is required to indicate it is compliant with the following statement or if not state why it is non-compliant.

The Board is satisfied that during the financial year most recently ended the Trust 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.

It is recommended that a “confirmed” declaration is made.

The governor training programme is constructed on a modular basis with the modules structured to support newly appointed and elected governors. These modules were run for the newly elected governors from the elections in quarters one and three as refresher for those returned for a further term of office and new governors. One to One support is in place for all new governors and buddying is encouraged for those more experienced governors to support newly appointed governors. Annual training on fire safety and Infection Control is offered across two sessions in the year allowing governors to attend at least one of these sessions. The Council of Governors Experience & Engagement Committee monitors the take up of induction and “mandatory” training, along with overseeing the content of the training programme utilising feedback from those attending the individual modules.

A series of engagement events supplement the training and enable Governors to attend strategy workshops with the Board, coupled with presentations from elements of the Trust on their service. Whilst members of the Council regularly participate in review and inspection activities including PLACE and Quality & Safety Review audits, owing to COVID this has been paused and will resume once operational capacity will allow. They are also invited to attend Trust Board and its committees and receive regular update briefings hosted by the chair and fellow NEDs.

The Trust had worked with the Council of Governors to develop an engagement plan for 2020-2022 with the governors ‘out there’ initiative at its core supporting governors out and about in their respective constituencies. This is monitored by the Experience and Engagement Committee.

3 RISKS AND MITIGATIONS

3.1 These are contained in the body of the report

4. RECOMMENDATION(S)

- **That the Board approve the draft Provider Licence Self-certification**
- **That the Council of Governors be consulted on the draft Licence Self-certification**

**Liam Nevin
Board Secretary
June 2021**