

## Compliance with the Trust's Foundation Trust Licence

### 1. Background:

On being established as an NHS Foundation Trust from 1 March 2015, the Trust has been required to comply with the conditions as set out in the NHS Provider Licence. The Licence, which replaced the former Terms of Authorisation for Foundation Trusts, is the main tool used by NHSI to regulate providers of NHS services.

NHSI may take action against an NHS Foundation Trust if the organisation is in breach of its Licence conditions, such actions may include the imposition of compliance or restoration requirements or monetary penalties. Non-compliance also has potential for reputational damage. It is therefore important that the organisation is assured of its compliance, is able to evidence and where weaknesses in compliance are identified that these are appropriately addressed.

### 2. Composition of Licence Conditions:

The Licensee (the Trust) is required to take all reasonable precautions against the risk of failure to comply with:

- Conditions of the Licence.
- Any requirements imposed on it under the NHS Acts, and
- The requirement to have regard to the NHS Constitution in providing healthcare services for the purpose of the NHS.

The Provider Licence is formed of the following principle sections:

- **General Conditions:** relates to the provision of accurate, complete and not misleading information to Monitor, the publication of information as required by Monitor, payment of fees to Monitor, apply due regard to Monitor guidance, ensure "fit and proper" persons (Directors and Governors), registration with CQC, patient eligibility and selection criteria and ensuring reasonable systems are introduced and maintained for compliance with licence conditions.
- **Pricing:** recording and provision of information Monitor needs to set prices, data accuracy, constructive engagement with commissioners and compliance with National Tariff.
- **Choice and competition:** support the right of patients to make informed choices; not enter into or maintain agreements or arrangements which would have effect of preventing, restricting or distorting competition.
- **Integrated care:** support the provision of integrated care.
- **Continuity of services:** continued provision of Commissioner Requested Services; maintenance of an asset register of assets used for the provision of Commissioner

requested services; systems and standards of corporate governance and financial management; ensure access to required resources, payment to risk pool levy and cooperation with Monitor in the event of financial stress occurring.

- **Governance Licence Conditions for FTs:** maintenance of information requirements; payment to Monitor of registration and related costs; **corporate governance arrangements.**

### 3. Assurance on compliance:

Whilst it is important the Trust has assurance on compliance, it is not proposed that a separate monitoring process is introduced. Significant work has previously been undertaken on identifying the evidence sources and processes enabling assurance to be obtained in relation to compliance. Further work is being undertaken to map each of the Licence Conditions to existing sources of assurance including:

- Financial, Quality & Performance reporting.
- Escalation and Assurance Framework including Board Assurance Framework and risk register processes.
- Committee structures, reporting and review arrangements.
- Board of Directors Development programme.
- Nomination & Remuneration Committee review of Board composition.
- Financial sustainability and availability of resources reporting and assurances.
- Internal and external auditors reports.
- NHSI monitoring reporting sign off.
- Quality processes.
- Trust strategy.
- Internal and External Audit reviews.
- Fit and Proper Persons arrangements and register of interests.
- Constitution.
- CQC inspections and action monitoring.
- Governance statements.
- Patient, service user, carer and staff engagement.
- Patient surveys, Patient Opinion, staff surveys.
- Board and Governor site visits programme.
- Clear lines of reporting and accountabilities “Ward to Board”.
- Accountability Reviews.
- Council of Governors.
- Training provision to and support for governors.
- Business planning arrangements, monitoring, review and market / risk assessment.

### Reporting

For the financial year 2016/17 NHSI has confirmed that the Trust only has to report and publish on three conditions:

- Condition G6 – that we have systems and process to ensure we comply with the license itself, the NHS act and the NHS constitution.
- FT4 – overall governance, control and risk management.
- CoS7 – availability of resource to ensure commissioner requested services.

## Compliance with NHS Provider Licence

### Section 1: General Conditions:

		Summary of Condition	Trust position	Evidence / Assurance
G1	Provision of Information	<p>Trust shall provide such reports, documents and information in such form, place or times as NHSI may require for the exercise of NHSI's functions under s96(2) of the 2012 Act (other than what it could not be compelled to provide to a civil court because of legal professional privilege.</p> <p>Ensure such reports and information are accurate, complete and not misleading and a document is a true.</p>	Compliant	<p>Submission of quarterly and monthly returns Board sign off of quarterly returns</p>
G2	Publication of Information	To comply with any direction from NHSI to publish information about NHS health services and as to the manner in which such information should be published.	Compliant	Compliance with annual report / quality reporting guidance
G3	Payment of fees to NHSI	The Trust shall pay fees to NHSI in each financial year of such amount as NHSI may determine for each such year or part thereof in respect of the exercise by NHSI of its functions as set out in section 96(2) of the 2012 Act. To become payable no later than the 28 <sup>th</sup> day after determination.	Compliant	As appropriate.

		Summary of Condition	Trust position	Evidence / Assurance
G4	Fit and Proper Persons as Governors / Directors	The Trust shall ensure that no person who is an “unfit” person may become or continue as a Governor / Director except with NHSI approval.	Compliant	<ul style="list-style-type: none"> <li>○ Director and Governor declarations as part of recruitment and nomination processes.</li> <li>○ Fit and Proper Person declarations signed by Directors.</li> <li>○ Responsibility of Director / Governor to notify.</li> <li>○ Conditions of appointment</li> <li>○ Constitution set out requirement</li> <li>○ Checks undertaken by HR as part of Director recruitment processes</li> <li>○ Annual Declaration received by board.</li> </ul>
G5	NHSI Guidance	Trust shall at all times have regard to guidance issued by NHSI.  If for whatever reason it decides not to follow guidance it shall inform NHSI of the reasons for that decision.	Compliant	Guidance followed.
G6	Systems for compliance with	The Trust shall take all reasonable precautions against the risk of failure to comply with: <ul style="list-style-type: none"> <li>○ Licence Conditions</li> <li>○ Requirements imposed on it under the NHS Acts</li> <li>○ The requirement to have regard to the NHS Constitution</li> </ul> Re the above to: <ul style="list-style-type: none"> <li>○ establish and implement systems to identify risks and guard against their occurrence</li> <li>○ Regularly review whether processes and systems have been implemented and of their effectiveness</li> </ul>		Submission of certificate of compliance – requirement in 2017.  Regular and routine reporting through organisation governance processes.  Compliance with regulatory and external reporting and returns.

		Summary of Condition	Trust position	Evidence / Assurance
G7	Registration with Care Quality Commission		Compliant	Quality Committee received assurance
G8	Patient eligibility and selection criteria		Compliant	Evidence collection in progress
G9	Application of Section 5 (Continuity of Service)			

### Section 2: Pricing:

		Summary of Condition	Trust position	Evidence / Assurance
P1	Recording of information	To be transparent regarding pricing if requested by NHSI.	Compliant	No requests
P2	Provision of information	Submission of the above to NHSI	Compliant	
P3	Assurance report on submissions to NHSI	Submission of assurance report regarding data accuracy in the above.	Compliant	
P4	Compliance with the National Tariff		Compliant	
P5	Constructive engagement concerning local tariff modifications	Negotiated with commissioners if necessary	Complaint	

### Section 3: Choice and Competition:

		Summary of Condition	Trust position	Evidence / Assurance
C1	The right of patients to make choices	Regulation regarding patient choice	Complaint	
C2	Competition oversight	Regulation regarding patient choice	Compliant	

#### Section 4: Integrated Care:

		Summary of Condition	Trust position	Evidence / Assurance
IC1	Provision of integrated care	<p>The Trust shall not do anything that could reasonably be regarded as against the interests of health service users by being detrimental to enabling the integration of services (health related services or social care services) to achieve one of more of the following objectives:</p> <ul style="list-style-type: none"> <li>○ Improving the quality and or efficiency of NHS health care services</li> <li>○ Reducing inequalities in access</li> <li>○ Reducing inequalities in outcomes</li> </ul>	Compliant	<ul style="list-style-type: none"> <li>○ Sustainability &amp; Transformation Plan</li> <li>○ New models of working</li> <li>○ Vanguard activities</li> </ul>

#### Section 5: Continuity of Services:

		Summary of Condition	Trust position	Evidence / Assurance
CoS1	Continuing Provision of Commissioner Requested Services (CRS)	The Trust shall not cease to provide or materially alter the specification or means of provision of any CRS except:		All decisions around services are agreed with commissioners in advance.
CoS2	Restriction on the disposal of assets	Maintenance of an up to date asset register listing every relevant asset used by the Trust for the provision of Commissioner Requested Services.		Assets registers are produced and fully audited.

		Summary of Condition	Trust position	Evidence / Assurance
		<p>Where the Trust has been notified by NHSI of concerns with regard to ability to continue as a going concern, the Trust shall not:</p> <ul style="list-style-type: none"> <li>○ Dispose or relinquish control over any relevant asset without the prior consent of NHSI.</li> <li>○ Where consent is given by NHSI subject to conditions, these conditions will be complied with</li> </ul>	Not applicable as no concerns raised by NHSI regarding the Trust's ability to continue as a going concern.	
CoS3	Standards of corporate governance and financial management	<p>The Trust shall adopt and apply systems and standards of corporate governance and financial management which would reasonably be regarded as:</p> <ul style="list-style-type: none"> <li>○ Suitable for a provider of Commissioner Requested Services</li> <li>○ Providing reasonable safeguards against the role of the Trust being unable to continue as a going concern.</li> </ul> <p>Taking account of NHSI guidance and the Trust's risk rating.</p>	Compliant	In place, reviewed and subject to external scrutiny on an annual basis.
CoS4	Undertaking from ultimate controller	Relating to organisations in special measures / financial distress	Not applicable	
CoS5	Risk pool levy		Not applicable	
CoS6	Cooperation in the event of financial stress	Will apply if NHSI has given notice that it is concerned about the ability of the Trust to continue as a going concern. In this situation the Trust is required to provide information, co-operate, permit inspection etc	Not applicable	If the situation were to arise, the Trust would comply.

		Summary of Condition	Trust position	Evidence / Assurance
CoS7	Availability of resources	To at all times act in a manner calculated to secure that it has or has access to the required resources. To submit not later than 2 months from the end of the financial year a certificate as to the availability of Required Resources for the period of 12 months commencing on the date of the certificate.	Compliant	Financial strategy and annual financial plan setting out details of resource requirements and efficiencies approved by the Board of Directors.

### Section 6: NHS Foundation Trust conditions:

		Summary of Condition	Trust position	Evidence / Assurance
FT1	Information to update the register of NHS Foundation Trusts	Provision to NHSI of: <ul style="list-style-type: none"> <li>o Current version of Constitution</li> <li>o Annual accounts and report of auditor on them</li> <li>o Annual Report</li> <li>o Any document required by NHSI for the purpose of S39 of the 2006 Act</li> </ul> <p>Shall comply with NHSI directions on the format of electronic documents</p>	Compliant	
FT2	Payment to NHSI in respect of registration and related costs	Payment within 28 days of fee being notified by NHSI.	Compliant	
FT3	Provision of information to advisory panel	The Trust shall comply with any request for information or advice made of it under S39A(5) of the NHS Act 2006	Compliant	



		Summary of Condition	Trust position	Evidence / Assurance
FT4	NHS Foundation Trust governance arrangements	<p>Application of those principles, systems and standards of good corporate governance which would be reasonably regarded as appropriate for a supplier of health services to NHS including:</p> <ul style="list-style-type: none"> <li>○ Effective board and committee structures</li> <li>○ Clear responsibilities for board and committees</li> <li>○ Clear reporting lines and accountabilities throughout organisation</li> </ul> <p>Establish and effectively implement processes / systems:</p> <ul style="list-style-type: none"> <li>○ To ensure compliance with duty to operate, efficiently and economically</li> <li>○ For timely and effective scrutiny and oversight by the Board of operations</li> <li>○ To ensure compliance with healthcare standards inc. SoS, CQC, statutory professional regulators etc</li> </ul>	Compliant	<p>Evidence:</p> <ul style="list-style-type: none"> <li>○ Board and committee structures (and regular review thereof)</li> <li>○ Terms of reference of committees and sub-committees (and annual review thereof)</li> <li>○ Organisational structure (and review thereof)</li> <li>○ Annual review of Board composition</li> </ul> <p>Assurances:</p> <ul style="list-style-type: none"> <li>○ Annual Governance Statement</li> <li>○ Head of Internal Audit Opinion</li> <li>○ External Audit</li> <li>○ Code of Governance assessment</li> </ul>