



Trust Headquarters



Lancashire Teaching Hospitals
NHS Foundation Trust

Board Report

Title of Paper: Self-Certifications **APPROVED**

Report to:	Board of Directors	Date:	24 May 2019
Report of:	Company Secretary	Prepared by:	P Hemmings
Status of Report (please tick):			
For approval	<input checked="" type="checkbox"/>	For ratification	<input type="checkbox"/>
		For discussion	<input type="checkbox"/>
		For information	<input type="checkbox"/>

Executive Summary:

All FTs are required to complete self-certifications in relation to governor training and Condition G6(3), Condition FT4(8) and Condition CoS7 of the NHS provider licence.

The declarations regarding:

- i. Licence Condition G6(3) was complete by Friday 31 May 2019 and published on the Trust's website by Sunday 30 June 2019 (in accordance with Licence Condition G6(4)).
- ii. Licence Condition CoS7(3) was complete by Friday 31 May 2019.
- iii. Licence Condition FT4(8) was complete by Sunday 30 June 2019

On 24th May 2019 the Board of Directors approved the responses set out in this report and believe that the statements set out herein contain the main factors taken into account by the Board in making the declarations.

Trust Strategic Aims and Ambitions supported by this Paper:

Guidance Notes: (please cross the relevant boxes)

Aims

To offer excellent health care and treatment to our local communities	<input checked="" type="checkbox"/>	
To provide a range of the highest standard of specialised services to patients in Lancashire and South Cumbria	<input checked="" type="checkbox"/>	
To drive innovation through world-class education, teaching and research	<input checked="" type="checkbox"/>	

Ambitions

Consistently Deliver Excellent Care	<input checked="" type="checkbox"/>	
Great Place To Work	<input checked="" type="checkbox"/>	

Deliver Value for Money	<input checked="" type="checkbox"/>	
Fit For The Future	<input checked="" type="checkbox"/>	

Risk Implications/threat to:

Finance & Availability of Capital	<input type="checkbox"/>	System Resilience	<input type="checkbox"/>
Escalation & patient flow	<input type="checkbox"/>	Service Sustainability	<input type="checkbox"/>
Quality, Safety & Patient Experience	<input type="checkbox"/>	Seven Day Services	<input type="checkbox"/>
Legal & Regulatory Compliance	<input checked="" type="checkbox"/>	Achievability of Our Health Our Care	<input type="checkbox"/>
Workforce	<input type="checkbox"/>	IT and Cyber Security	<input type="checkbox"/>
Building/Estates	<input type="checkbox"/>	Reputational implications	<input type="checkbox"/>
Equality, Diversity & Inclusion	<input type="checkbox"/>	Other (Please state below)	<input checked="" type="checkbox"/>

Failure to make the necessary declarations, or making inappropriate declarations, may result in regulatory action being considered by NHS Improvement.

Risk Details

Ref No.	Risk Title	Current Score (LxC)	4T (Treat, Tolerate, Transfer, Terminate)
	<i>None</i>		

Previous consideration

	Date	Views
<input type="checkbox"/> ARTE Committee		
<input type="checkbox"/> Audit Committee		
<input type="checkbox"/> Endowment Funds Committee		
<input type="checkbox"/> Education, Training & Research Committee		
<input type="checkbox"/> Executive Team		
<input type="checkbox"/> Finance and Investment Committee		
<input type="checkbox"/> Safety and Quality Committee		
<input type="checkbox"/> Workforce Committee		

Decision made by the Board of Directors:

Decision	tick	Notes
Recommendation(s) accepted	<input type="checkbox"/>	
Recommendation(s) partially accepted	<input type="checkbox"/>	
Recommendation(s) not accepted	<input type="checkbox"/>	
Decision remitted to a sub-committee	<input type="checkbox"/>	
Decision suspended pending further info	<input type="checkbox"/>	

General condition 6 - Systems for compliance with license conditions:-

(1) Licence Condition G6 - COMPLETE

“The provider has taken all precautions necessary to comply with the licence, NHS Acts and NHS Constitution”

DECLARATION TEXT	PROPOSED RESPONSE
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.	CONFIRMED
2. The board declares that the Licensee continues to meet the criteria for holding a licence.	CONFIRMED

The main factors taken into account in making the above declaration are as follows:

“The Trust’s ability to achieve key access targets in 2018/19 was compromised due to operational pressure across the health system. During 2018/19 the Trust experienced increased levels of attendances and admissions, high levels of escalation with medical outliers and compromised patient flow. Whilst we are working hard to implement our Quality Improvement Plan, system resilience is dependent on all stakeholders implementing changes across the health economy.

The Trust has been engaged in long term, system-wide transformation programmes and local continuous improvement work to address the many operational challenges involved in improving operational performance and staff and patient experience. The Trust is fully engaged in economy wide meetings; at a local level this includes the Central Lancashire Quality Improvement Board, the Central Lancashire A&E Delivery Board and the Integrated Care Partnership (ICP) Board; and, at a regional level, this includes the Integrated Care System (ICS) Board for Lancashire and South Cumbria.

This wide scale improvement work is mid-term rather than immediate, and requires regulatory support. As such, we anticipate that there will be continued operational and subsequent compliance issues against key access targets during 2019/20.”

(2) Licence Condition CoS 7 - COMPLETE

“If providing commissioner requested services, the provider has a reasonable expectation that required resources will be available to deliver the designated service”

Only NHS foundation trusts designated as providing commissioner requested services (CRS) must self- certify under Condition CoS7(3). Accordingly, the Board chose the following option:

Response: Option 2

"After making enquiries the Directors have a reasonable expectation, subject to what is explained below, that the Trust will have the required resources available to it after taking into account in particular (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 below) which may cast doubt on the ability to provide Commissioner Requested Services."

The factors to be considered are: the forward financial projections, the key risks and mitigations, as set out in the Trust's Operational Plan for 2019-20. The Trust's financial resilience is dependent upon external support by way of working capital loans from the Department of Health. Working capital loans have been made available to support the deficit of the Trust, ensuring liabilities are met, and these are continuing to be available in 2019/20. The current working capital loan of £20.5m from the Department of Health has only been extended until March 2020, and the working capital facility of £30.4m falls due for repayment in April 2020. It has been indicated that these facilities will be extended further while the Trust remains in deficit. The Trust recognises that sustainable financial balance needs to come through engagement with the wider health economy requiring not only the Trust to achieve service efficiencies but also for it to maximise the use of its assets and support the wider transformational change in service delivery. The Trust will work with NHS Improvement and its stakeholders to achieve this objective.

(1) Certification on training of Governors - in accordance with s151(5) of the Health and Social Care Act - **COMPLETE**

The Board is being asked if it is satisfied that during the financial year most recently ended the Trust has provided the necessary training to its governors, as required by section 151(5) of the Health and Social Care Act 2012, to ensure they are equipped with the skills and knowledge they need to undertake their role.

The proposed declaration is "**Confirmed**" on the basis that:

On appointment our governors receive formal induction training to enable them to understand the context in which they are carrying out their role, including information on their statutory duties, as well as practical information such as the various sub-groups available to them. We have a formal Governor Development Programme, which was developed in consultation with Governors, and the development sessions themselves are delivered through eight governor workshops each year and at least three joint Board and Council development sessions each year.

(2) Licence Condition FT4 “The provider has complied with required governance arrangements”

<p>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.</p>	<p>CONFIRMED</p>	<p>(1) Mitigated through external reviews of board governance and implementing any agreed actions. The Company Secretary has an important role in ensuring that the board is kept updated on guidance/compliance requirements from the regulator. They can also advise on good practice in this area, benefiting from membership of NHS Providers and the Company Secretary networks. Other sources of advice are from the external auditors through the audit committee. We also have a clear internal audit programme and assurance cycle, and our external auditors provide assurance around the financial and quality accounts. They also provide an opinion on our annual governance statement.</p>
<p>2. The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time</p>	<p>CONFIRMED</p>	<p>(2) Mitigated through receipt of regular updates from NHSI, membership of local FT Company Secretary network and national Company Secretary network. Regular communications from legal advisors also received, as are updates from the external auditors through the audit committee.</p>
<p>3. The Board is satisfied that the Trust implements:</p> <p>a) Effective board committee structures; and</p>	<p>CONFIRMED</p>	<p>(3.a) The Trust as a whole reviews its own leadership and governance arrangements periodically. In June 2018 the Board commissioned Deloitte to undertake an independent review of its leadership and governance using the well-led framework. The findings of this review demonstrated the effectiveness of our governance arrangements and indicated a good level of awareness around the strengths of the organisation, as well as reflecting areas where greater improvement is required. The review noted that there has been an ongoing focus on improving governance arrangements across the Trust. Where Deloitte highlighted areas for improvement, the Trust has since implemented actions to address them via the Governance Maturity Plan. In addition to the periodic governance reviews referred to above, the board reviews its board committee structure annually, and the effectiveness of the Trust’s governance structures continue to be internally tested via the Annual Internal Audit Programme.</p>
<p>b) Clear responsibilities for its Board, for committees reporting to the Board and for staff reporting to the Board and those committees; and</p>	<p>CONFIRMED</p>	<p>(3.b) Board committee arrangements have been strengthened to facilitate more effective management of risks within the organization in key areas. All of our board sub-committees carried out an effectiveness review during 2018/19 and individual committee development plans have been updated.</p>

<p>c) Clear reporting lines and accountabilities throughout its organisation.</p>	CONFIRMED	(3.c) Clear reporting lines are in place, with managers and staff being aware of their responsibilities and accountabilities. On the 1 April 2019 we launched a more robust Accountability Framework.
<p>4. The Board is satisfied that the Trust effectively implements systems and/or processes:</p> <p>a) To ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;</p> <p>b) For timely and effective scrutiny and oversight by the Board of the Licensee's operations;</p>	CONFIRMED	<p>(4.a/b) The Trust has robust arrangements in place for setting objectives and targets on a strategic and operational basis. These arrangements include ensuring that the financial plan is viable and we are compliant with our provider licence and coordinating individual objectives with corporate objectives. The Trust participates in initiatives to ensure value for money (see the 18/19 AGS). The board scrutinizes the Trust's performance via the Integrated Performance Report and the Board Assurance Framework (both presented bi-monthly to the board) and significant risks are discussed in detail at board committees. Key risks are discussed with governors at formal council meetings. The CCG systematically reviews Trust delivery of the contract and key risks are discussed through the contract process. In addition we would escalate key risks to the ICP Board and/or the A&E Delivery Board, which provide strategic leadership to the development and delivery of a health economy commissioning strategy.</p>
<p>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;</p>	CONFIRMED	(4.c) The risks to delivery of national health care standards are detailed in the Trust's operational plan and kept under ongoing review through the Integrated Performance Report and the BAF. The Trust has taken a number of steps to seek to mitigate such risks through focused and dedicated work to bring performance back into compliance. This has involved internal work as well as collaborative work with other partners in the local health economy. Details of such mitigating actions are set out in the annual governance statement within our annual report.
<p>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)</p>	CONFIRMED	(4.d) Any risks to effective financial decision-making, management and control are mitigated through review of SFIs, scheme of delegation and reservation of powers to board. There is regular review of the financial position by the board and finance & performance committee (FPC). In 2017/18 we worked with McKinsey on NHS Improvement's 'FIP Wave 2' programme. Through this programme McKinsey recognised we have mature financial governance arrangements.
<p>e) To obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;</p>	CONFIRMED	(4.e) The board & its committees receive accurate, comprehensive, timely and up to date information to assist in their decision making. The Chairman and Chief Executive ensure that board members are kept updated on relevant issues outside the cycle of formal meetings.

<p>f) To identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence.</p> <p>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</p>	<p>CONFIRMED</p> <p>CONFIRMED</p>	<p>(4.f) The Board carries out an annual self-assessment of the Trust's compliance against its provider licence and the Trust's additional licence condition. We review our progress against our enforcement undertakings on a quarterly basis via the Finance and Performance Committee. We also seek the expertise and advice of our external auditors in relation to risk and forward planning issues, alongside the work of our internal auditors.</p> <p>(4.g) The Trust has a standard assessment process for future business plans to ensure value for money and full appraisal processes are employed when considering the effect on the organisation. Procedures are in place to ensure all strategic decisions are considered at executive and board level.</p>
<p>h) To ensure compliance with all applicable legal requirements.</p> <p>5. The Board is satisfied:</p> <p>a) there is sufficient capability at Board level to provide effective organisational leadership on the quality of care provided;</p> <p>b) the Board's planning and decision-making processes take timely and appropriate account of quality of care considerations;</p> <p>c) accurate, comprehensive, timely and up to date information on quality of care is collected;</p> <p>d) the Board receives and takes into account accurate, comprehensive, timely and up to date information on quality of care;</p> <p>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</p>	<p>CONFIRMED</p> <p>CONFIRMED</p> <p>CONFIRMED</p>	<p>(4.h) There is a clear process for and awareness of the legal and regulatory requirements placed on the Trust. The Company Secretary is a qualified solicitor and is able to support the Trust in this regard.</p> <p>(5.a) Risks to capability at board level are mitigated through reviews of the board by the appointments, remuneration and terms of employment (ARTE) committee and the nominations committee. The external review of board governance provided in-depth scrutiny of all areas to ensure that they continue to be appropriate and fit for purpose. There is a balance of skills on the board and care is taken to ensure that board members are continually developed.</p> <p>(5.b) The Board's planning and decision-making processes take timely and appropriate account of quality of care considerations. When considering CIP schemes, in order to mitigate the impact on quality of care, the Trust has in place a 'Quality Impact Assessment' and governance systems that requires clinical approval of CIP schemes.</p> <p>(5.c/d/e) The monthly quality reports provided to the Board as part of the Corporate Performance Report are comprehensive and provide directors with appropriate and timely information to monitor the care given to the Trust's patients. Emphasis is also placed on gaining the views and opinions of patients, staff and stakeholders. For example, patient stories are provided to the board for consideration at every board meeting. Many other examples are detailed in the Trust's annual report (particularly in the quality accounts) and in board reports.</p>

<p>f) 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.</p>	<p>CONFIRMED</p>	<p>(5.f) There is clear accountability for quality of care throughout the organisation, led by the Nursing, Midwifery and AHP Director and the Medical Director, with staff at all levels appreciating their responsibilities.</p>
<p>6. The Board effectively implements 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.</p>	<p>CONFIRMED</p>	<p>The Trust as a whole reviews its own leadership and governance arrangements periodically. In June 2018 the Board commissioned Deloitte to undertake an independent review of its leadership and governance using the well-led framework. The findings of this review demonstrated the effectiveness of our governance arrangements and indicated a good level of awareness around the strengths of the organisation, as well as reflecting areas where greater improvement is required. The review noted that there has been an ongoing focus on improving governance arrangements across the Trust. Where Deloitte highlighted areas for improvement, the Trust has since implemented actions to address them via the Governance Maturity Plan. In addition to the periodic governance reviews referred to above, the board reviews its board committee structure annually, and the effectiveness of the Trust's governance structures continue to be internally tested via the Annual Internal Audit Programme.</p> <p>Furthermore, at board committee level, we carry out annual effectiveness reviews. All board sub-committees carried out an effectiveness review during 2018/19 and individual committee development plans have been updated.</p> <p>A robust appraisal process is in place for all board members and other senior executives. The Chairman appraises the Chief Executive, and the Chief Executive carries out performance reviews of the other executives. All these reports are submitted to the appointments, remuneration and terms of employment committee.</p> <p>The Chairman undertakes the performance review of non-executive directors and the Senior Independent Director undertakes the Chair's appraisal, each using our non-executive director competency framework. The outcomes of the 2018/19 appraisals will be reported to the Council of Governors on 15th July 2019.</p>