

REPORT TO CHESTERFIELD ROYAL HOSPITAL NHS FOUNDATION TRUST BOARD

HELD IN PUBLIC

Agenda item: NHS Foundation Trust Code of Governance compliance: provider licence self-certification	Date: 27 May 2020
Board lead: Angie Smithson, Chief Executive	
<input type="checkbox"/> Full assurance: <i>Activities and controls are suitably designed and operating with sufficient effectiveness to provide reasonable assurance that the control environment is effectively managed.</i>	<input type="checkbox"/> Significant assurance: <i>Except for specific weaknesses identified the activities and controls are suitably designed and operating with sufficient effectiveness to provide reasonable assurance that the control environment is effectively managed.</i>
<input type="checkbox"/> Limited assurance: <i>Activities and control are not suitably designed, or not operating with sufficient effectiveness to provide reasonable assurance that the control environment is effectively managed.</i>	<input type="checkbox"/> No assurance: <i>There are fundamental weaknesses in the design and operation of activities and controls such that it is inadequate and likely to fail.</i>
<p>Reason for the item:</p> <p>Under the terms of the provider licence issued by NHS Improvement (NHSI), each licensed provider ('licensee') is required to self-certify whether or not they have:</p> <ul style="list-style-type: none"> • effective systems to ensure compliance with the conditions of the NHS provider licence, NHS legislation and the duty to have regard to the NHS Constitution (condition G6); • complied with governance arrangements (condition FT4); and • for NHS foundation trusts only, the required resources available if providing commissioner requested services (CRS) (condition CoS7). <p>Trusts are no longer required to return the self-certification to NHS Improvement however from July 2018 NHS Improvement will contact a selection of NHS Trusts and foundation trusts to ask for evidence that they have self-certified (either completed templates or relevant board minutes and papers). The guidance and timelines have not been impacted by Covid-19. The self-certification must be approved no later than the following:</p> <p>G6/CS07 – 31 May 2020 FT4 - 30 June 2020.</p> <p>And must be published within a month following Board approval or by 30th June 2020 at the latest.</p> <p>The board has made affirmative declarations in each of the preceding seven years: 2013, 2014, 2015, 2016, 2017, 2018 and 2019.</p>	
<p>Summary/key messages:</p> <p>Providers need to self-certify following the end of the financial year in respect of three licensing conditions (below) and it is recommended that the Board approves the self-certification as follows:</p>	

- **Condition G6 (3) – The provider has taken all precautions necessary to comply with the licence, NHS Acts and NHS Constitution.**

The board is able to confirm certification, having regard to the evidence of appropriate systems of governance and internal control through the work of the Audit and Risk Committee(ARC) and the Assurance Committees); and the evidence of overall performance and resource management (i.e. overall performance against standards and targets). At its meeting, in March, the Board approved compliance against the NHS Constitution.

Covid-19 has impacted this year in that the formal approval of the annual governance statement, the head of internal audit opinion, the external audit opinion on the financial accounts will not be considered for approval until 19 June by the ARC however drafts of these have been circulated to all Board members. Additionally the external audit opinion on the quality accounts will now be given later in the year.

- **Condition FT 4(8) – The provider has complied with required governance arrangements.**

The Board is able to confirm certification following the assurance provided by the Audit and Risk Committee in March regarding the Trust's compliance with the NHS Foundation Trust Code of Governance. This was also shared with the Council of Governor's Nomination Committee at its meeting in March. Accordingly, a 'comply or explain' statement is within the draft Annual Report and Accounts 2019-20.

- **Condition CoS7(3) – If providing commissioner request services (CRS) (See Appendix 1), the provider has a reasonable expectation that required resources will be available to deliver the designated service.**

The Board is able to confirm certification having reviewed financial plans for 2019-20. The key risks to delivery has been identified in the Board Assurance framework as:

2.1: As a result of....

Failure to deliver the ambitions of the Clinical Services Strategy and the new NHS long term plan to transform and build efficiency within the portfolio of core services, whilst increasing system partnership working, based on business modelling and analysis, and to continue to divest non-core services that are not sustainable or affordable.

There is a risk that

Delivery of a portfolio of sustainable, high quality services to the population the Trust serves, identified service weaknesses and opportunities, and the potential to add value are not achieved

Which might result in.....

National standards not being met and unsustainable, inefficient non-core services.'

And,

5.2: 'As a result of.....

Poor system decisions made which lead to poor care due to the inability to influence the development of the Derbyshire integrated plan due to poor plans, regulatory oversight or engagement.

There is a risk that.....

Inability to influence and help to shape the most appropriate approach to the financial shortfall at the strategic commissioner in Derbyshire

Which might result in.....

Poor decommissioning decision to quickly restore financial balance that may have poor impacts on the health and care systems performance. '

- **Training of governors – that the necessary training has been provided for the Trust’s 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.**

The Board is able to confirm certification due to the findings from the 2018 and 2019 annual Council of Governors evaluations which noted the structured induction plan for new governors which also offered a range of NHS Provider Courses and following on from the interactive 2019 annual evaluation the introduction of some Trust staff essential training to the January induction and development sessions which are available to all governors, with improved links to relevant information on the internet.

Recommendation for Board:

That Board confirms certification that the Trust has:

- complied with the conditions of the NHS provider licence;
- the required resources available to provide any commissioner requested services(CRS); and,
- complied with governance requirements including the provision of governor training.

Related strategic objective(s):

Provide high quality, safe, person centred care	<input checked="" type="checkbox"/>	Support & develop our staff	<input checked="" type="checkbox"/>
Deliver sustainable, appropriate & high performing services	<input checked="" type="checkbox"/>	Manage our money wisely, foster innovation & become more efficient	<input checked="" type="checkbox"/>
Build on existing partnerships & create new ones	<input checked="" type="checkbox"/>	Provide an infrastructure to support delivery	<input checked="" type="checkbox"/>

Board Assurance Framework (BAF) risks relating to this item:

- All

Impact

Quality	<input checked="" type="checkbox"/>	Environment	<input checked="" type="checkbox"/>	Compliance	<input checked="" type="checkbox"/>
Finance	<input checked="" type="checkbox"/>	Partnerships	<input checked="" type="checkbox"/>	Legal	<input checked="" type="checkbox"/>
Workforce	<input checked="" type="checkbox"/>	Risk	<input checked="" type="checkbox"/>	Digital	<input checked="" type="checkbox"/>

Equality Impact Assessment *(if there is an impact on E&D, an Equality Impact Assessment must accompany the report)*

Strategy Policy Service Change

Report History

Please list other corporate meetings this report has been considered by:

Name of meeting	Agenda Ref	Report Title	Date of meeting	Brief summary of key issues raised and actions
Nominations Committee		CoG annual evaluation 2019	11 November 2019	The nominations committee supported the council of governors’ evaluation report and

				action plan and agreed to recommend its approval to the full council of governors.
Council of Governors		CoG annual evaluation 2019	10 December 2020	The Council received the evaluation, agreed the actions within the report and requested that an interactive approach be used for the 2020 evaluation.
Audit and Risk Committee		Draft Annual Governance Statement NHS Foundation Trust Code of Governance compliance	11 March 2020	Comments requested by 6 April. None received. The audit and risk committee noted the code of governance report and no issues were raised.
Nominations Committee		Code of Governance	16 March 2020	The nominations committee noted the two areas of non-compliance and the procedures in place to mitigate the position.
Board of Directors		NHS Constitution	25 March 2020	Recommendation for approval agreed by consent.
Nominations Committee		Council of Governors evaluation update	20 April 2020	The nominations committee were pleased with the progress that had been made despite the events over the past few weeks. The committee noted that the report would be received by the council of governors at a future meeting.