



NHS Improvement General Condition 6 of the NHS Provider Licence Compliance

Background

The certification in relation to General Condition 6 of the NHS provider licence asks the Board to confirm that all reasonable precautions against the risk of failure to comply with the licence and other important requirements were taken during 2016/17. Views are informed by the work of the Audit Committee throughout 2016/17 as well as the conclusions drawn in the Annual Governance Statement. The certification requires sign-off by the Board prior to 31 May 2017. At its meeting on 25th May 2017, the Board approved compliance with General Condition 6, based on the following information:

Key Considerations

- 1.1. For clarity and to assist in the Board's assessment of the proposed responses, General Condition 6 has been reproduced below:

Declarations required by General condition 6 and Continuity of Service condition 7 of the NHS provider licence

The board are required to respond "Confirmed" or "Not confirmed" to the following statements (please select 'not confirmed' if confirming another option). Explanatory information should be provided where required.

1 & 2 General condition 6 - Systems for compliance with license conditions (FTs and NHS trusts)

- 1 Following a review for the purpose of paragraph 2(b) of licence condition G6, the Directors of the Licensee are satisfied 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	OK
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1. The Licensee shall take all reasonable precautions against the risk of failure to comply with:

- (a) the Conditions of this Licence,
- (b) any requirements imposed on it under the NHS Acts, and
- (c) the requirement to have regard to the NHS Constitution in providing health care services for the purposes of the NHS.

2. Without prejudice to the generality of paragraph 1, the steps that the Licensee must take pursuant to that paragraph shall include:

- (a) the establishment and implementation of processes and systems to identify risks and guard against their occurrence; and
- (b) regular review of whether those processes and systems have been implemented and of their effectiveness.

3. Not later than two months from the end of each Financial Year, the Licensee shall prepare and submit to Monitor a certificate to the effect that, following a review for the purpose of paragraph 2(b) the Directors of the Licensee are or are not 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 this Condition.



- 1.2. NHS Improvement has summarised this as:
- A provider is required to have in place effective systems and processes to ensure compliance, including:
 - Identifying risks to compliance; and
 - Taking reasonable mitigating actions to prevent those risks and a failure to comply from occurring.
- 1.3. The Trust has a governance structure in place with regular reporting of issues, decisions and actions through to the Board committees and the Board on a regular basis.
- 1.4. This includes a strong focus on risk management, with the Executive Risk Management Group (ERMG) now reporting directly into the Board, providing greater transparency and focus on risk at Board level.
- 1.5. In addition, the Board Assurance Framework (BAF) is mapped to the Board committees, and the relevant extracts are reviewed at every meeting, ensuring that strategic risks play a prominent role in committee debate and decision-making. The BAF and Organisational Risk Register (ORR) are also presented to both the ERMG and Board on a quarterly basis.
- 1.6. Compliance with some elements of the Trust's licence are reported separately to the Board committees to provide additional assurance. For example the Workforce Committee receives assurance that fit and proper person tests are carried out annually on each Board Member to confirm ongoing compliance with this requirement.
- 1.7. Governance arrangements in respect of the Trust's Governors have been strengthened during 2016/17, with a new Code of Conduct introducing more explicit annual testing of Governor fit and proper persons requirements. In addition the Trust established the Governor Governance Committee to provide greater Governor scrutiny of governance issues relating to the Council, including compliance with Governor policies and attendance requirements.
- 1.8. Paragraph 2(b) itself refers to the need to regularly review whether the processes and systems have been implemented and how effective they are.
- 1.9. Throughout 2016/17 a number of internal and external reviews of processes and systems have been undertaken, including but not limited to:
- The CQC inspection in April 2016;
 - Internal audit reviews;
 - Clinical audit reviews;
 - External audit work to support the year end opinions; and
 - Internal reviews of committee / group effectiveness.
- 1.10. Where reviews have highlighted areas where the Trust needs to enhance processes and systems, action plans have been developed to ensure that associated actions are implemented on a timely basis.



- 1.11. The Head of Internal Audit Opinion concluded that good assurance could be provided for 2016/17, as no areas of significant weakness identified by Internal Audit remained unresolved at the year end.
- 1.12. The Trust's 'good' rating from CQC indicated a positive level of compliance with CQC's fundamental standards and quality governance requirements.
- 1.13. Both the Board and Governors were provided with briefings on NHS Improvement's new Single Oversight Framework and the potential implications for the Trust. The Trust has been financially and operationally challenged throughout the year, but was able to achieve a segment rating of 2 at the end of Quarter 3, under the new Single Oversight Framework (on a scale of 1 to 4 with 1 being the best segment score). The score for Quarter 4 has not been confirmed by NHS Improvement, but the Trust's financial return at the year-end indicated that the score for the finance-only element was predicted to remain at 1, consistent with Quarter 3.
- 1.14. A segment score of 2 is defined as follows within the Single Oversight Framework:

2	Providers offered targeted support – potential support needed in one or more of the five themes, but not in breach of licence (or equivalent for NHS trusts) and/or formal action is not needed
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The Audit Committee at its meeting on 23rd May 2017 considered and approved the statement and recommended it to the Trust Board and, following discussion at its meeting on 25th May 2017, the Board confirmed compliance with the statement in respect of General Condition 6.

Yvonne Ormston

Yvonne Ormston
Chief Executive
25 May 2017

Ashley Winter

Ashley Winter OBE
Chairman
25 May 2017