

**Delegation of Approval for Annual Report & Accounts 2021/22
and Annual Declarations**

Trust Board	Item: 17
Date: 25 May 2022	Enclosure: M
Purpose of the Report: To consider and approve declarations for Foundation Trust licence condition G6, and to approve delegated authority to approve the Annual Report and Accounts, and sign off of licence condition FT4(8).	
For: Information <input type="checkbox"/> Assurance <input type="checkbox"/> Discussion and input <input checked="" type="checkbox"/> Decision/approval <input checked="" type="checkbox"/>	
Sponsor (Executive Lead):	Sam Armstrong, Director of Corporate Affairs and Trust Secretary
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Risk Implications – Link to Assurance Framework or Corporate Risk Register:	
Legal / Regulatory / Reputation Implications:	Annual Report and Accounts and declarations related to compliance with the provider licence
Link to Relevant CQC Domain: Safe <input checked="" type="checkbox"/> Effective <input checked="" type="checkbox"/> Caring <input checked="" type="checkbox"/> Responsive <input checked="" type="checkbox"/> Well Led <input checked="" type="checkbox"/>	
Link to Relevant Corporate Objective:	All
Document Previously Considered By:	EMC
Recommendations: The Board is asked to: <ul style="list-style-type: none"> - approve declarations for Foundation Trust licence conditions G6 and CoS7 - delegate authority to the Audit Committee to approve the Annual Report and Accounts; and - delegate authority to the Audit Committee to approve the sign off of licence condition FT4(8). 	

Annual Report and Accounts 2020/21

The timetable for the Annual Report and Accounts has again been altered this year due to the Covid-19 pandemic. Key dates are as follows:

- 17th June 2022: Audit Committee to consider and approve Annual Report and Accounts 2021/22;
- 22nd June 2022: Trust submit Annual Reports and Accounts 2020/21
- TBC: deadlines and details for laying Annual Report and Accounts before Parliament.

In order to meet the deadlines for submission, the Board is asked to delegate authority to the Audit Committee to approve the final Annual Report & Accounts for 2021/22 at its meeting scheduled for 17th June 2022. The final draft will be presented for noting to the Board in July 2022.

Self-Certification Declarations due 31 May 2021: G6

By 31st May each year, NHS foundation trusts are required to self-certify whether or not they have complied with the conditions of their NHS provider licence.

The licence conditions also link to obligations within the National Health Service Act 2006, the Health and Social Care Act 2008, the Health Act 2009 and the Health and Social Care Act 2012, and have regard to the NHS Constitution.

By 30th June each year, providers are required to publish on their website their declarations of the self-certifications for G6(3).

Submissions of the declarations are no longer made to NHS Improvement. Due to the Covid-19 pandemic, NHSI stated last year that they had ceased auditing these declarations. They have made no update this year as to the approach they are taking.

This report provides information to support approval of the declarations.

Declaration on Licence Condition G6

Licence Condition G6 statement: "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."

The clause also makes reference to:

- 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.

This is a retrospective declaration stating whether we were satisfied that the Trust took the necessary precautions in the last financial year.

The Trust will need to declare whether it can 'confirm' or 'not confirm' the statement. There is no set process for assurance or how conditions are met. Providers should have regard for their governance systems and how they achieve the objectives set out in the licence condition. There is no set approach to these standards and objectives, but NHSI expect any compliant approach to involve effective board and committee structures, reporting lines and performance and risk management systems.

Rational for Declaration

Confirming

Following are statements and assurances:

The Trust is not aware of any instances where it has breached any requirements imposed under the NHS Acts or NHS Constitution during the year ended 31 March 2021, or breaching relevant conditions within the provider licence. In forming this view we are not aware of any instances of non-compliance identified either as part of the Trust's external audit, the rolling programme of internal audits, or through our interactions with NHSE/I during the year ended 31 March 2021. On this basis we are assured that we continue to act within regulations and meet the criteria for 'holding a licence', complying with the Act and NHS Constitution.

Assurances

Assurances around the Trust being able to declare 'confirm' for the self-certification could include the following (including some reference to the provider licence in brackets):

- The Trust remains registered with the CQC and received rating of 'outstanding' in its last inspection report, including for well-led (G7)
- The Trust has set eligibility and selection criteria for patients, with an access policy (G8)
- The Trust has continued to provide services, has not ceased any services in the last year, except those mandated by Gold Command under NHS Incident Level 4 protocols at ICS level, and has a complaints process in place (G9)
- The Trust has promptly informed NHSE/I and CQC of any related issues when they have occurred and have complied with any directives from them during the year
- The Trust has an effective business intelligence function and no issues have been raised on data quality or accuracy (G1)
- Trust Website has been refreshed and further improvements are being developed (G2)
- FPPT are carried out annually and no issues raised from this process
- The Trust has reported to NHSI when they have requested information. The Trust has made every attempt to engage with commissioners to reach agreement in the payment of the provision of services. We provide choice to patients (P1)
- The Trust strives to improve services (through QI programme) and reduce inequalities to those accessing services (P3)
- The Trust has an asset register and manages its assets through the governance structure (CoS2)
- The Trust has a Board approved Patient First Strategy
- The Trust has applied systems and standards of corporate and financial governance which has been suitable for a provider like us, and providing reasonable safeguards against the risk of not being able to carry on as a going concern.
- The Trust has in place a Risk Management Strategy and risk management regime, as outlined in the annual governance statement.
- The Trust has an established Board and Committee structure, including a Quality Assurance Committee, which receives regular assurance reports
- The Board reviews SI and Never Events
- Chief executive's report to Trust board on various issues of importance
- Board committee reports provided to Trust Board following each committee meeting
- We have liaised with SWL ICS regarding the financial challenges the Trust faces (CoS6) and made financial governance provisions in response to Covid-19
- The Trust Board receives regular performance and quality reports

Declaration on Licence Condition CoS7

The Board will be asked to make a declaration for CoS 7. However, the proposal will be discussed at FIC and then provided to the Board for consideration.

This self-certification makes a declaration about the year ahead and that the Trust will have sufficient resources to continue providing commissioner requested services.

CRS are essential services which must continue to be provided locally should the current provider fail, because:

1. either there is no alternative provider close enough; or
2. removing them would increase health inequalities; or
3. removing them would make dependent services unviable.

The Trust is asked to approve one of the following statements for CoS7:

Continuity of services condition 7 - Availability of Resources

EITHER:

- 3a After making enquiries the Directors of the Licensee have a reasonable expectation 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.

OR

- 3b After making enquiries the Directors of the Licensee have a reasonable expectation, subject to what is explained below, that the Licensee will have the Required Resources available to it after taking into account in particular (but 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 in the text box below) which may cast doubt on the ability of the Licensee to provide Commissioner Requested Services.

OR

- 3c 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.