# NHS Provider Licence Self-Certification 2022-2023 General Condition 6, Continuity of Service 7 and Condition FT4



The Board of Directors at its meeting on 27 July 2023 reviewed and agreed the NHS Provider Licence Self-Certification statements for 2022-2023:

# **General Condition 6: Systems for Compliance with Licence Conditions**

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 regard to the NHS Constitution

In making the above declaration, the main factors taken into consideration include:

- The Trust believes that the best service improvements are those where our service users, the wider public and key stakeholders work together to coproduce services based on the health and care needs of our local population. Strong integrated governance arrangements are therefore paramount as we work in a much more integrated way to improve care for our residents, population and service users
- The annual governance statement in the Trust's annual report for 2022-2023 describes the Trust's capacity to manage risk, its system of internal control and the processes in place to identify, evaluate and manage operational risks and risks to the achievement of the Trust's strategic objectives. Key elements of this system include the Trust's Risk Management Framework and approach to Board assurance; the Board committee structure and the committees' role in risk management; the approach to quality assurance and quality improvement; and the Trust's performance management framework. The annual governance statement also describes the steps taken to adapt the Trust's governance structures both in response to the pandemic and in returning to 'business as usual'
- The Board receives regular reports that allow it to assess compliance with the provider licence, including finance, performance, quality and compliance reports at each meeting. Individual reports address elements of risk, such as reports on safe staffing levels. This enables the Board to have clear oversight over the Trust's performance. The Board also receives regular assurance reports from the chairs of its standing committees following each committee meeting. There are clear reporting lines and accountabilities throughout the organisation that ensures quality and performance reporting requirements are mirrored from Board standing committee level to local level with information flowing both ways
- No significant internal control issues, or risks to compliance with the provider licence or the requirements imposed under the NHS Acts, have been
  identified during 2022-2023. The Trust continues to account for the conditions of both in the delivery of its healthcare services
- The Trust has regard to the provisions contained within the NHS Constitution, and the rights of patients, service users and staff, through the formulation and adoption of Trust policies and procedures, its approach to service delivery and its governance structures
- The Trust's approach to ensuring continued compliance with the CQC standards and regulatory requirements. The Trust was rated as 'Outstanding' overall for a third consecutive time by the CQC following a comprehensive well-led inspection in 2021 as well as for being 'well-led': "the leadership, governance and culture (at the Trust) were used to drive and improve the delivery of high-quality person-centred care". The Trust has continued with the CQC preparedness programme and the monitoring of action plans in response to inspections
- The Trust has a comprehensive programme of internal audit in place aligned to key areas of potential financial and operational risk
- The Trust has received the Head of Internal Audit opinion on the effectiveness of the Trust's system of internal control, including its approach to risk management. The overall opinion was that "the Trust has an adequate and effective framework for risk management, governance and internal control. However, our work has identified further enhancements to the framework of risk management, governance and internal control to ensure that it remains adequate and effective"

## **Continuity of Service Condition 7: Availability of Resources**

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

In making the above declaration, the main factors taken into consideration include:

- The Board discusses and approves the Trust's strategic and annual plans (and budgets) taking into account the views of the Council of Governors
- Trust sets its budget on an annual basis and actively manages and monitors its financial position, resource levels, quality and performance on a
  regular basis during the year through routine performance reporting to the Board and its committees, with scrutiny and oversight by the Executive
  team and through local structures
- Budgetary and FV setting processes have been reviewed and strengthened during the year
- The Board's finance and performance reports provide assurance to the Board on the delivery of the Trust's strategy and Trust-wide performance, finance and compliance matters, and seeks to demonstrate how the Trust is improving the quality of life for all we serve
- Performance and quality review meetings assess each directorate's performance across a full range of financial and quality metrics that, in turn, forms
  the basis of the monthly performance, quality and compliance report to the Trust's Service Delivery Board
- The Executive team, the Board and its standing committees continued to meet during the year in line with their forward plans, maintaining control of decision-making and oversight of risk and performance
- The Trust continues to embed a value and financial viability programme
- Draft annual accounts for 2022-2023 submitted to NHSE in June 2023 as agreed by NHSE and as reported to Audit Committee
- Although the Board is yet to sign off the annual accounts for 2022-2023 (due in November due to delay in LGPS audit), on initial review and following external audit the Audit Committee has a reasonable expectation that the Trust has adequate resources to continue in operational existence for the foreseeable future. For this reason, the Trust continues to adopt the going concern basis in preparing the accounts. The view is supported by a cash balance of £134.5m as at 31 March 2023
- Due to the delay in the LGPS audit, the external auditors will not be able complete the audit of the Trust's annual report and accounts in line with NHSE issued timetable. However, NHSE are aware of the issue which is not within the Trust's control
- Final annual report and accounts expected to be submitted in November 2023
- During 2022-2023 the Trust's financial performance (£1,899k surplus) was an integral part of ensuring the North East London ICS delivered financial balance
- Confirmation from NHSE of the Trust being in segment 1 of the System Oversight Framework (no specific support needs identified) in Oct 2022.

# **Condition FT4: Corporate Governance Statement**

The Board of Directors confirmed compliance with Condition FT4: Corporate Governance Statement for 2021-2022 as set out in the table below The table includes potential risks to not meeting the requirements as well as the mitigating actions

The table includes potential risks to not meeting the requirements as well as the mitigating actions			
Corporate Governance	Response	Potential Risks and Mitigating Actions	
Statement			
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	<ul> <li>CONFIRMED</li> <li>The Trust has in place effective corporate governance systems and controls which are updated according to changes in guidance/requirements</li> <li>The Trust's governance systems are subject to both internal and external audit</li> <li>A detailed explanation about the Trust's corporate governance systems is set out in the Trust's annual governance statement and in other parts of the Trust's annual report 2022-2023</li> <li>The Board gains assurance through regular scrutiny of its effectiveness through its committees and particularly the Audit Committee</li> <li>CQC rated the Trust 'Outstanding' overall following a comprehensive well-led inspection as well as for the well-led domain</li> <li>An independent well-led external review undertaken by Deloitte during 2021 which confirmed the <i>Trust exhibits several</i> characteristics of an 'Outstanding' Trust and is an exemplar in areas including people participation, QI, Governor engagement and is seen as a strong system player. The Board displays many traits associated with a unitary Board and has an innovate committee structure and use of the BAF at both Board and committees</li> <li>The Trust's system of internal control is based on an ongoing process designed to identify and prioritise the risks to the achievement of the Trust's strategic priorities</li> <li>The Trust has carried out a comprehensive self-assessment against corporate governance related to this licence condition</li> </ul>	Risk 1: If the Trust's governance framework and supporting structures are not fit for purpose adversely affecting good corporate governance and decision making Mitigating Actions:  Review of Board committee structure, terms of reference and information flow to and between committees and the Board completed to ensure it remains fit for purpose reflecting the changes to the Trust service provision and system working; review now on operational committees  Corporate governance development actions plan developed to bring together a range of actions from both internal and external inspections and assessments or those identified as being required to support/enhance the systems/processes to ensure effective governance arrangements  Annual review of compliance with NHSE code of governance (best practice in corporate governance)  Trust's internal audit function which reports to Audit Committee on the effectiveness of internal controls and provides recommendations for improvements	
2. The Board has regard to such guidance on good	<ul> <li>CONFIRMED</li> <li>Board is fully briefed as guidance becomes available</li> </ul>	<b>Risk 2:</b> If Board Directors are unaware of guidance in a timely manner this could affect the	
corporate governance as	Regular updates provided by internal auditors at Audit Committee	Trust's compliance status	
may be issued by NHS		Mitigating Actions:	
Improvement from time to	Membership of NHS Providers and NHS Confederation	On the release of new guidance a review will	
time			
ume		be undertaken by relevant teams (e.g. legal,	

3. The Board is satisfied that the Trust has established and implements:  a. Effective Board and committee structures b. Clear responsibilities for its Board, for committees reporting to the Board and for staff reporting to the Board and those committees c. Clear reporting lines and accountabilities throughout its organisation	<ul> <li>CONFIRMED</li> <li>The Trust has an effective governance structure in place which is reviewed annually alongside the terms of reference of committees which set out the roles and responsibilities of the committees as delegated by the Board</li> <li>The work of the Committees are reported to the Board via regular assurance reports</li> <li>The Trust works within a framework that devolves responsibility and accountability throughout the organisation through robust service delivery arrangements. There are clear structures with clear responsibility and accountability below director level</li> <li>Job descriptions and other key governance documents, such as the Standing Financial Instructions (SFIs), Scheme of Reservation &amp; Delegation (SoRD), etc set out in detail the accountabilities across the Trust</li> <li>The quality governance framework is critical to the Trust's safe and effective response to demands including the pandemic, winter pressures, etc</li> </ul>	MHA, finance, corporate governance, etc) to identify any actions required; updates will be provided to the relevant committees/Board as appropriate  • Director of Corporate Governance and other Trust teams horizon scan and are included on review groups and circulation lists including NHSE and NHS Providers, to provide contributions/influencing opportunities and early notification  • Annual review of compliance with NHSE code of governance in preparation for annual report disclosures  Risk 3: If the Trust's governance framework and supporting structures are not fit for purpose and/or responsive will adversely affect good corporate governance and decision making  Mitigating Actions:  • As for para 1 above plus  • Annual review Trust's SFIs and SoRD particularly reflecting Trust's responsibilities under Health & Care Act 2022  • Annual review of the Trust's BAF and risk appetite  • Developing organisational structure charts to provide clarity on areas of responsibility and reporting lines
4. The Board is satisfied that the Trust has established	CONFIRMED	<b>Risk 4:</b> If the Trust does not have effective governance (both corporate and clinical)
and effectively implements		arrangements in place, this may lead to poor
systems and/or processes:		oversight at Board level of risks and challenges;

To ensure compliance Para 3 above applies strategic objectives not being established or with the duty to operate structures not in place to achieve those The Trust's system of internal control is based on ongoing objectives; or appropriate structures and efficiently, economically processes designed to identify and prioritise the risks to the and effectively processes not in place to maintain the Trust's achievement of the Trust's strategy and strategic priorities, to reputation and accountability to its stakeholders evaluate the likelihood of those risks being realised and the impact **Mitigating Actions:** should they be realised, and to manage them efficiently, effectively As for para 3 above plus: and economically Risk in respect of failure to maintain Executive team has responsibility for overseeing the day to day operations of the Trust and for ensuring that resources are being essential standards of quality and safety used economically, efficiently and effectively resulting in the provision of sub-optimal care and increases the risk of harm, is included For timely and effective The Board and its committees meets on a bi-monthly basis and on the BAF with the Chief Nurse as the lead scrutiny and oversight by holds extraordinary meetings where time sensitive items are Executive. Regular updates on mitigating the Board of the Trust's considered. The meetings receive reports, information and data actions are presented to the QAC relating to finance, performance, quality (including patient safety) operations Review and strengthening of the Trust's and people, allowing time for scrutiny and challenge budget setting and FV annual plans Board committees have a programme of deep dives scrutinising risks and mitigations within their areas of responsibility introduced for 2023-2024 Delivery of the underpinning plans The Trust has a BAF and Corporate Risk Register (CRR) as part of supporting delivery of the Trust's strategy. its Risk Management Framework which set out the high level risks e.g. people plan, membership engagement facing the organisation, and the ways in which these are identified, plan, people participation priorities, quality monitored and mitigated priorities, etc To ensure compliance • The Trust was awarded an 'outstanding' rating following the CQC Executive oversight of legal requirements inspection in October 2021. The Trust continues to hold regular with health care standards supported by relevant/expert teams including binding on the Trust meetings with CQC finance, MHA, legal and corporate including but not restricted CQC preparedness programme in place governance teams to standards specified by Trust has a clinical governance structure in place to manage health Legal advice sought when required the Secretary of State, standards compliance CQC, NHS Health care provision is underpinned by policies, procedures and Commissioning Board and clinical guidelines based on NICE and best practice guidance statutory regulators of • The Trust's quality assurance team leads on understanding the health care professions quality of care that we provide and aspire to, identifying gaps and work towards addressing these, e.g. through service user led accreditation, clinical audits, Board walkrounds and triangulation of learning • Trust has a range of subject matter experts who provide guidance

and advice in their professional areas

	Trust staff are members of relevant networks and work
	collaboratively with system partners
	<ul> <li>Professional registration for clinical staff is closely monitored and</li> </ul>
	revalidation carried out in line with regulations for health care
	professionals
For effective financial	<ul> <li>The Trust has a finance function underpinned by policies and</li> </ul>
decision-making,	procedures overseen by the Chief Finance Officer
management and control	<ul> <li>Board dedicates time to strategy, including financial strategy, at its</li> </ul>
(including but not	Board development sessions and seminars
restricted to appropriate	<ul> <li>The Board's Finance, Business and Investment Committee meets</li> </ul>
systems and/or processes	bi-monthly to review financial performance, contracts, the capital
to ensure the Trust's	programme, financial viability, etc
ability to continue as a	<ul> <li>Appropriate finance controls and governance have been maintained</li> </ul>
going concern)	during 2022-2023 and in response to the requirements of system
	working
	<ul> <li>The Trust's SoRD and SFIs provide clear limits on financial decision</li> </ul>
	making including when Board approval is required for significant
	financial decisions
	<ul> <li>During 2022-2023, all decisions continued to be in line with the</li> </ul>
	Trust's SoRD and SFIs
	<ul> <li>Trust has an internal audit programme aligned to key areas of</li> </ul>
	potential financial and operational risk overseen by both the Quality
	Assurance and Audit Committees
	<ul> <li>Trust's constitution requires the Council to approve any significant</li> </ul>
	transactions as defined in the constitution
	<ul> <li>A briefing session on the accounts for Governors is led by the Audit</li> </ul>
	Committee chair and the Chief Finance Officer
	<ul> <li>The Trust remains in segment 1 of NHSE Oversight Framework</li> </ul>
To obtain and disseminate	<ul> <li>The Trust has an informatics and business analysis function which</li> </ul>
accurate, comprehensive,	links into all data systems to provide comprehensive reporting to the
timely and up to date	Board and its committees;
information for Board and	<ul> <li>The Trust has other systems in place such as patient electronic</li> </ul>
Committee decision-	systems, incident reporting system, etc which allows other data to
making	be presented to the Board and its committees
	<ul> <li>Two new platforms (PowerBi and InPhase) being introduced</li> </ul>

	<ul> <li>The Trust recognises the importance of having timely and effective monitoring reports using data as a fundamental requirement to support the delivery of safe and high quality care</li> </ul>	
To identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence	<ul> <li>The Trust's Risk Management Framework enables informed management decisions in the identification, assessment, treatment and monitoring of risk</li> <li>The Trust's BAF provides a structure for the effective and focused management of the principal risks in meeting the Trust's strategic priorities. It enables easy identification of the controls and assurances that exist in relation to the Trust's key objectives and the identification of significant risks. Each risk on the BAF is allocated to an executive lead and to a relevant Board committee. The lead committee reviews the relevant entries on the BAF at each meeting</li> <li>Review of compliance with licence conditions completed annually</li> </ul>	
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	<ul> <li>Strategy refreshed during 2021, strategic priorities established and supporting frameworks developed (e.g. people plan) inc development of population health measures in 2023</li> <li>Trust has an annual planning process that ensures future plans are developed and supported by appropriate engagement and approvals</li> <li>Trust participates in system-wide working arrangements and collaborative working. Any plans developed as part of this process are scrutinised internally via the Executive team and Board's integrated Care &amp; Commissioning Committee, as well as by external partners</li> <li>Trust has produced an annual plan collaboratively with NELFT and has contributed to NEL ICS submitting a break-even financial plan</li> </ul>	
To ensure compliance with all applicable legal requirements	<ul> <li>The governance, risk and control processes in place ensure that the Trust remains compliant with all legal requirements</li> <li>Executive oversight of legal requirements supported by relevant teams including finance, MHA, legal and corporate governance teams</li> <li>Legal advice is sought when required</li> </ul>	
5. The Board is satisfied that the systems and/or processes referred to in para 4 (above) should include but not be	<ul> <li>CONFIRMED</li> <li>Joint Chair with NELFT appointed 1 January 2023</li> <li>Annual performance reviews for Executive and NEDs including the Chair and CEO – focusing on both individual objectives and</li> </ul>	Risk 5.1: If the Board does not have sustained capability or expertise, this could impact on its ability to lead on the quality of care in the current climate

restricted to systems and/or processes to ensure:

- a. That there is sufficient capability at Board level to provide effective organisational leadership on the quality of care provided
- b. That the Board's planning and decisionmaking processes take timely and appropriate account of quality of care considerations
- c. The collection of accurate, comprehensive, timely and up to date information on quality of care
- d. That the Board receives and takes into account accurate, comprehensive, timely and up to date information on quality of care
- 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

- contributions as well as those as a unitary Board, and system working
- Annual succession planning discussions at Board's Appointments & Remuneration Committee (RemCo) and Council's Nominations & Conduct Committee (NomCo). Decision during 2022 to appoint an additional NED with carer/lived experience
- Trust commitment to quality and involving people who use our services to help us improve is core to the way the Trust works
- Board has overview of the quality and safety of care provided across the Trust. Detailed reports are discussed at each Board meeting. The Board also receives presentations at each meeting on quality improvement initiatives, people participation and patient stories
- Quality assurance, quality improvement, clinical leadership and coproduction are an integral part of the Trust's strategy (our organisational treasures)
- The Board's QAC meets bi-monthly and provides overview and scrutiny of quality and safety within each directorate and across the Trust, reporting to the Board on assurances gained and any gaps. It also reviews clinical risks at each meeting
- Trust's quality report provides a summary of the Trust's quality achievements and challenges, demonstrating how it meets its statutory and regulatory requirements as well as how it meets the expectations of its service users, carers, stakeholders, members and the public
- Service users and carers, as well as the public and members' views are also represented by Governors
- People participation structure to ensure that service users, carers and our local communities are actively involved in the planning, development, effective delivery and evaluation of all Trust services so that we can offer a better service for all
- The Trust has established a People Participation Committee where service users and carers are involved in strategic decision making
- Clear accountability for quality of care through the Chief Medical Officer, Chief Nurse and Chief Quality Officer

**Mitigating Action 5.1:** Board composition and succession planning regularly reviewed by the Chair and RemCo to ensure skill mix and experience is appropriate and balanced

**Risk 5.2:** If the Trust does not maintain essential standards of quality and safety, this may result in the provision of sub-optimal care and increases the risk of harm

Mitigating Action 5.2: Patient Safety Director appointed to take forward the development of the patient safety framework that will provide an integrated approach to safety spanning the whole Trust, building on existing assets, culture and infrastructure to provide reliability and resilience, embed a 'just' culture and a culture of learning and safety management

- f. That 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
- Trust actively works with its providers, voluntary and third sector through formal and informal mechanisms to foster and enable integrated care
- New membership engagement plan approved: coproduced and reflecting that at ELFT our members are our local community, service users, staff, stakeholders and the voluntary sector – connecting us to all we serve
- Opportunity for staff to raise concerns through Freedom To Speak Up and Whistleblowing processes
- 6. The Board is satisfied that there are 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

#### Response: CONFIRMED

- Trust recognises that providing high-quality inpatient and community-orientated health care to the communities we serve requires a highly skilled and motivated workforce
- Board has a wide range of skills and experience with the majority of members having a medical, nursing or other health professional background. NEDs have wide-ranging expertise and experience with backgrounds in health, primary care, finance, audit and regulation, business and organisational development, HR, global commercial, local government and third sector; one new NED appointed with carer/lived experience
- RemCo and NomCo oversee the recruitment processes for Executive and NEDs respectively; two new NEDs appointed 2023
- Annual succession planning review to assess mix of skills and experience on the Board to ensure balance is maintained, and to ensure effective operation as a unitary Board
- Rigorous and transparent recruitment process for new Board Directors includes testing against the values of the Trust and inclusion of stakeholder panels comprising of Governors, service users and carers, and external stakeholders
- All Board Directors comply with the requirements of the Fit and Proper Persons Regulation and are appropriately qualified to discharge their functions effectively
- All Board Directors and senior decision makers complete annual declarations of interest

**Risk 6:** If the Trust does not have systems and processes to ensure Board Directors, managers, clinicians and staff are sufficient in number and qualified, this could affect the quality of service provision and decision making

## **Mitigating Action 6.1:**

- People plan includes actions to mitigate BAF risk if the Trust does not effectively attract, retain and look after staff wellbeing, there will be an impact on the Trust's ability to deliver the Trust's strategy
- Board and senior management succession planning overseen by RemCo and through appraisals

- Annual appraisal process supports effective succession planning through talent conversations
- People plan priority areas include capacity and capability, leadership, collaborative working and staff engagement
- Regular appraisals include discussions on staff's development and career aspirations
- Continuous professional development of clinical staff, including medical staff, supports the delivery of high quality clinical services. The Trust has processes in place to ensure all medical practitioners providing care on behalf of the Trust have met the relevant registration and re-validation requirements
- Trust has various leadership and management development pathways in place; during 2023 coproduced approach to Trust-wide review of leadership and culture undertaken for implementation in 2023-2024
- Given the national staffing challenges, it is even more important to recognise the link between positive staff experiences and the impact on patient care and is committed to ensuring that every member of staff feels valued and is able to contribute to the best of their ability
- Pandemic particularly highlighted importance of the Trust's support and wellbeing offer for staff – covering emotional, physical and social wellbeing

# **Training of Governors**

The Board of Directors confirmed that, during the financial year most recently ended (2022-2023), it had provided the necessary training to its Governors as required under s151(5) of the Health and Social Care Act. This is to ensure that Governors are equipped with the skills and knowledge needed to undertake their role.

Signed on behalf of the Board of Directors:

Eileen Taylor Chair

27 July 2023

Paul Calaminus Chief Executive 27 July 2023