Moorfields Eye Hospital NHS Foundation Trust

Agenda item 04
Provider licence conditions – self certification
Board of directors 22 June 2023

Report title	Provider licence conditions – self certification
Report from	Interim company secretary
Link to strategic objectives	The attached papers link to all strategic objectives

Executive summary

NHS England (NHSE) oversees compliance with provider licence conditions. Moorfields Eye Hospital NHS Foundation Trust (MEH) is required to self-certify that it has complied with the conditions of the NHS provider licence, has in place standards of good corporate governance and has the required resources available if providing commissioner requested services.

Self-certification forms part of NHSE's annual risk assessment of trusts. Providers must demonstrate that they have carried out the self-certification process and make the compliance statements available.

What is required?

The board must sign three declarations related to quality, governance and resources. The specific requirement is to self-certify that MEH has:

a. 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)
b. Complied with governance arrangements (condition FT4); and
c. As a Foundation Trust, has the required resources available if providing commissioner requested services (CRS) (condition CoS7).

Quality implications

As detailed in the compliance statements.

Financial implications

As detailed in the compliance statements.

Risk implications There is a risk to the trust and directors as individuals for any failure to comply with statutory requirements relating to submission of the annual compliance statements, and in particular, failure to comply with the conditions of the licence.
Action required/recommendation. The board is asked to approve the attached compliance statements and approve their publication on the trust website.

For assurance		**For decision**	✓	**For discussion**		**To note**	

2022/23 – Board self-certification (evidence)

APPENDIX 1

GENERAL CONDITION 6 – SYSTEM FOR COMPLIANCE WITH LICENCE CONDITIONS (FTs and NHS Trusts)

MEH must confirm or not confirm compliance with the statement below. This appendix contains the list of evidence and the separate corporate governance statement (Appendix 3) alongside the Annual Governance Statement and the Annual Report. The committee is asked to recommend that the Board confirms the statement. In summary this states that in 2022/23 the Board was satisfied that it met the conditions of its foundation trust licence. If confirmed, MEH will publish a compliance statement on its website by the end of June.

Statement	Evidence of compliance	Relevant committee/group
G6		
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.	For the purposes of licence condition G6, the Board is satisfied that the Trust took all such precautions as were necessary in order to comply with the conditions of the licence, the NHS acts and Constitution. The corporate and clinical governance functions monitor compliance with all statutory and regulatory requirements and report to the Board as necessary. The annual governance statement in the Trust's annual report for 2022/23 describes the Trust's 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. No significant internal control issues, or risks to compliance with the provider licence or the requirements imposed under the NHS Acts, have	Audit & risk committee Quality & safety committee Finance committee

	been identified during 2022/23. The Trust continues to account for the conditions of both in the delivery of its healthcare services. The Trust has received a positive Head of Internal Audit opinion on the effectiveness of the Trust's system of internal control. The Trust's Risk Management Framework (which includes the BAF, CRR and Directorate Risk Registers) enables informed management decisions in the identification, assessment, treatment and monitoring of risk. 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. The Audit & Risk Committee reviews the relevant entries on the BAF quarterly.	

APPENDIX 2 – Continuity of Services Declaration

DECLARATIONS REQUIRED BY CONTINUITY OF SERVICE CONDITION 7 OF THE NHS PROVIDER LICENCE

The committee is asked to review the continuity of services condition 7 statements which require self-certification statement about availability of resources in the coming 12 months. There are three statement options set out below. MEH must **confirm one** of the statements.

STATEMENTS

EITHER

(A*) 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 of distributions which might reasonably be expected to be declared or paid for the period of 12 months referred to in this certificate*

OR

(*B) 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

(C) 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.

Recommendation:

The Audit Committee has reviewed and recommended to the board that **Statement A** should be confirmed and to note that there is no plan to draw attention to any factors which may cast doubt on MEH's ability to provide Commissioner Requested Services.

The Board and its committees, having reviewed the financial statements, are satisfied that the Trust has the required resources to fulfil the requirements of the licence, and that appropriate monitoring and escalation procedures are in place.

The Board discusses and approves the Trust's strategic and annual plans (and budgets) taking into account the views of the Membership Council.

The 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.

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 integrated performance, quality and compliance.

The Executive team, the Board and its standing committees continued to meet during the year in line with forward plans, maintaining control of decision-making and oversight of risk and performance.

APPENDIX 3 – FT4 and Training Statement

DECLARATION: CORPORATE GOVERNANCE STATEMENTS (FTs and NHS Trusts)

Column 1 **Corporate Governance Statement**	**Column 2** **Response options** (confirmed or not confirmed)	**Column 3** **Risks and mitigating actions**
The Board is satisfied that the Licensee 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.	**Confirmed**	**No risk identified**
Evidence to support The Board has in place well developed systems of corporate and financial governance. Assurance on this is provided through the audit & risk committee, via both internal and external audit. A detailed explanation of various corporate governance systems is set out in the Annual Governance Statement and in other areas of the annual report.		**Committee/Groups** Audit & risk committee

Column 1 **Corporate Governance Statement**	**Column 2** **Response options** (confirmed or not confirmed)	**Column 3** **Risks and mitigating actions**
The Board has regard to such guidance on good corporate governance as may be issued by NHS England from time to time.	**Confirmed**	**No risk identified**
Evidence to support Guidance is circulated to the Board as and when it becomes available and is also scrutinised by Board subcommittees where relevant.		**Relevant Committee/Group** All committees and the board of directors

Column 1 **Corporate Governance Statement**	Column 2 **Response options** (confirmed or not confirmed)	Column 3 **Risks and mitigating actions**
The Board is satisfied that the Licensee 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; and*** ***(c) Clear reporting lines and accountabilities throughout its organisation.***	**Confirmed**	**No risk identified**
Evidence to support The Board committee structure is fit for purpose and terms of reference are reviewed on an annual basis. Committees also undertake an annual review of effectiveness. There are governance structures in place that set out reporting lines and lines of accountability. The standing orders of the Board of directors and membership council are reviewed annually and in detail every three to four years. The standing financial instructions are reviewed and updated annually. The work of the Committees is reported to the Board via regular assurance reports. 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.		**Relevant Committee/Group** All committees and the board of directors

Column 1 **Corporate Governance Statement**	Column 2 **Response options** (confirmed or not confirmed)	Column 3 **Risks and mitigating actions**
The Board is satisfied that the Licensee has established and effectively implements systems and/or processes: ***(a) To ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;*** ***(b) For timely and effective scrutiny and oversight by the Board of the Licensee's***	**Confirmed**	**No risk identified**

operations; ***(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;*** ***(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);*** ***(e) To obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;*** ***(f) To identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence;*** ***(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*** ***(h) To ensure compliance with all applicable legal requirements.***		
Evidence to support Taking into account the commentary in the above points, the trust also has in place cycles of business for the Board of directors, membership council and other key decision-making forums. Overseen by the Board, the Executive team has responsibility for overseeing the day-to-day operations of the Trust and for ensuring that resources are being used economically, efficiently and effectively.		**Relevant Committee/Group** All committees and the Board of directors

The Board and audit & risk committee regularly review the Board assurance framework which is linked to the corporate risk register and divisional/departmental risk registers. The Trust has an integrated performance function which links into all data systems to provide comprehensive reporting to the Board and its committees. 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. The Board receives regular reports on finance, operational performance, quality and strategy. The Board and its subcommittees receive presentations on specific areas that allow them to assess the position and receive assurance on issues such as operational performance, opportunities for growth and risks/uncertainties. The Trust has a finance function underpinned by policies and procedures overseen by the Chief Financial Officer. The Board dedicates time to strategy, including financial strategy, at its Board development sessions. The Board's committees meet regularly to review financial performance, contracts, the capital programme, financial viability, etc Appropriate finance controls and governance have been maintained during 2022/23. The Trust's SFIs provide clear limits on financial decision making including when Board approval is required for significant financial decisions.	

Column 1 **Corporate Governance Statement**	**Column 2** **Response options** (confirmed or not confirmed)	**Column 3** **Risks and mitigating actions**
The Board is satisfied that the systems and/or processes referred to in paragraph 4 (above) should include but not be 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 decision-making 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;***	**Confirmed**	**No risk identified**

(e) That the Licensee, 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 ***(f) That there is clear accountability for quality of care throughout the Licensee including but not restricted to systems and/or processes for escalating and resolving quality issues including escalating them to the Board where appropriate.***		
Evidence to support There is a succession plan in place and Board development sessions for the whole Board and executive directors. The Board receives a number of reports on quality of care. A committee of the Board, the quality & safety committee, is dedicated to looking in detail at quality issues and this committee reports to the Board following each meeting. A six-monthly report from this committee is also received by the Board. The Board also reviews the annual quality report. A number of risks on the Board assurance framework and corporate risk register relate to care and are reviewed on a quarterly basis. All serious incidents and/or never events are reported to the Board.		**Relevant Committee/Group** Quality & safety committee People & culture committee Audit & risk committee Finance committee Remuneration & nominations committee Membership council

Column 1 **Corporate Governance Statement**	**Column 2** **Response options** (confirmed or not confirmed)	**Column 3** **Risks and mitigating actions**
The Board is satisfied that there are systems to ensure that the Licensee 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.	**Confirmed**	**No risk identified**
Evidence to support All executive and non-executive director posts are occupied. There is a clear set of guidelines around ensuring those individuals comply with the fit and proper persons regulations and an annual assurance report to the audit & risk committee.		**Relevant Committee/Group** Remuneration & nominations committee People & culture committee

The Trust has systems in place to ensure that staff employed at every level are appropriately qualified for their role. The Board and its committees receive information on workforce issues and are assured in particular through the people & culture committee.	

Column 1 **Corporate Governance Statement**	**Column 2** **Response options** (confirmed or not confirmed)	**Column 3** **Risks and mitigating actions**
The Board is satisfied that during the financial year most recently ended the Licensee has provided the necessary training to its 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.	**Confirmed**	**No risk identified**
Evidence to support The trust has a group of experienced governors that have been involved in the trust for a number of years and new governors are assigned a 'buddy' to provide them with support and assistance. New governors meet with the Chair and company secretary as part of their induction, and to assess any development needs. An induction pack has been developed that provides governors with key information about the trust, including its structure, strategy, governance and leadership. This is given to all governors. Governors attend regular briefing sessions on the work of the trust committees in order to bring them up to speed on the issues that are being discussed. Other ad-hoc meetings are arranged about relevant areas. Governors have an established governance subgroup and have access to third party expertise as and when necessary. Governors have access to non-executive and executive directors at every membership council meeting. NHS Providers (through GovernWell) provide a variety of governor training courses to which all governors are invited to attend.		**Relevant Committee/Group** Membership Council Governors Governance Development Group