

## Introduction

The Board is required to make a number of declarations at the year end. Trusts are required to publish their declaration on their web site.

## Certifications

There are three sets of declarations required, these are attached using the provided NHS I templates.

Declaration 1 – this relates to NHS Provider License General Condition 6 - Systems for compliance with license conditions (FTs and NHS trusts) and for FTs that are providers of designation Commissioner Requested Services are required to make an extra declaration on their Continuity of Services condition 7 - Availability of Resources.

Declaration 2 - this relates to NHS Provider License General Condition FT4 – Corporate Governance and for FTs only there is a separate Declaration 3 relating to the Training for Governors.

## Trust Position

### Declaration 1 (appendix 1)

#### **General Condition 6 - Systems for compliance with license conditions (FTs and NHS trusts)**

The Board is required to confirm it is compliant with the following certification, or explain why it can't certify itself as compliant.

**Following a review for the purpose of paragraph 2(b) of license 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 license, any requirements imposed on it under the NHS Acts and have had regard to the NHS Constitution.**

**It is recommended the Board a positive “confirmed” declaration is made.**

Whilst the Trust is identified at being at risk of being non compliant with its licence by NHS I as indicated that the Trust is within segment 3, NHS I have accepted its letter of undertakings and NHS I has confirmed the Trust's medium term financial plan which contains trajectories which will see the Trust move to financial balance. The Trust since being rated good by the CQC continues to receive positive feedback from its CQC engagement visits. The Trust has not been served any notice by the CQC.

## Continuity of Service condition 7 – Availability of Resources

**This declaration is not applicable as the Trust is not a Foundation Trust**

### **Declaration 2 (appendix 2)**

#### **Condition FT4 - Corporate Governance Statement**

The Board is required to indicate it is compliant with the following statements or if not state why it is non compliant.

1) 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.

**It is recommended the Board signify its compliance** as the Board is assured from the work of the Audit Committee, its Internal and External Auditors and their opinions received during the year. The Board's view as to its governance processes is reflected within the Trust's Annual Governance Statement.

2) The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time.

**It is recommended the Board signify its compliance** as the Chief Financial Officer and Trust Board Secretary has made the Board, Audit Committee and Executives aware of monitor guidance and any impact / improvements to be made within Trust systems as a result. Also during the period where the Trust is delivering the Covid-19 challenges then the established Gold structure ensures the NEDs are updated on any governance guidance, this corroborated the changes the Trust enacted to focus the Board and Committees during this period.

3) The Board is satisfied that the Trust 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.

**It is recommended the Board signify its compliance** as these processes were referred to and their effectiveness was considered by the Accountable Officer when drafting the Trust's Annual Governance Statement with this description then considered by the Audit Committee as it endorsed the AGS for submission to the Auditors. Respective Committee reporting to the Board is operating effectively as evidenced by the regular reports to the Board from each Committee Chair. Within the Trust's Annual Governance Statement a statement is made in respect of the

revised Committee and Board governance arrangements put in place to manage the Covid-19 challenges facing the NHS and the Trust, supported by an established bronze, silver and gold command structure.

4) The Board is satisfied that the Trust 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 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.

**It is recommended the Board signify its compliance** as the Board both directly and through its Committee structure has been assured that the Trust's designed systems of internal control have been operating effectively and as intended over the year. Where issues have arisen during the year, for example in respect of operational performance, timely actions have been implemented to improve these areas, albeit the Trust has recognised and reported that it has not met the constitutional targets.

The Trust has delivered its control total and efficiency programme and the Audit Committee has recommended based on the information it has received that the Trust can prepare its financial statements on a going concern basis.

Assurance is obtained as to the quality of the data supporting the Trust's performance reporting through the annual internal audit work programme. The Board has received regular assurance over the delivery of the Trust's control total and efficiency plan.

Key risks and associated assurance have been reported to the Audit Committee and Board during the year through receipt and review of the Trust's Board Assurance Framework.

Whilst the Trust is required to have undertakings with NHS I as the Trust is within segment 3 of NHS I's Single Oversight Framework, NHS I in the latest undertakings state "The Trust has taken effective action to address its governance failures since the issue of the undertakings of March 2017, but further improvements are required" [regarding operational performance improvement]. The improvements are detailed within the Trust's medium term financial plan.

5) 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;
- (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; and
- (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.

**It is recommended the Board signify its compliance** as there is clear leadership and accountability for the delivery of high quality and safe services within the Trust. This is detailed with the Trust's Quality section of the Annual Report and the separate Quality Account and the statements contained therein. The Board both directly and through its Committee structures ensures that a focus is maintained on the delivery of quality services. There is regular reporting to the Board and our Commissioners of the delivery against the Trust's established quality priorities. These priorities are set in conjunction with the Trust's clinical strategy and annual plan. The effectiveness of these processes was again considered by the Accountable Officer in drafting the Annual Governance Statement which in turn was subject to consideration by the Audit Committee prior to its submission to the Auditors and inclusion within the Annual Report.

The CQC has rated the Trust as "good" overall and "outstanding" for caring providing further evidence to the Board on the quality of the Trust's services and the CQC has provided positive feedback from their regular engagement visits.

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.

**It is recommended the Board signify its compliance** as the Trust has established a process that ensures that all Board Members are "fit and proper" persons. This process has been applied to Board appointments made in the year. An annual review of all Board Members continuation as fit and proper persons has been undertaken and reported to the Audit Committee at the end of the year. The Board through its receipt of Workforce, Leadership and Organisational Development reports has been assured over the actions being taken to mitigate the workforce risks in relation to recruitment and retention, complimented by the review undertaken by the Audit Committee in respect of workplace BAF risks. Regular reporting is provided to the Board on the Trust's compliance with the nursing safer staffing levels and the revalidation of its nursing and medical workforce. All transformation schemes are subject to a detailed quality impact assessment and this rigor includes those schemes which include any workforce reduction and through this process the Board is assured that the Trust retains an appropriately qualified workforce to deliver its services. The Trust has a number of established Executive and Senior Management development programmes these activities are designed to support and strengthen the personnel on the Board, those reporting to the Board and those within the rest of the Trust.

### **Declaration 3 (appendix 2)**

#### **Training of Governors**

This declaration is not relevant as the Trust is not a Foundation Trust.

This template may be used by Foundation trusts and NHS trusts to record the self-certifications that must be made under their NHS Provider Licence.  
You do not need to return your completed template to NHS Improvement unless it is requested for audit purposes.

## **Self-Certification Template - Conditions G6 and CoS7**

**Brighton and Sussex University Hospitals NHS Trust**

*insert name of organisation*



Foundation Trusts and NHS trusts are required to make the following self-certifications to NHS Improvement:

*Systems or compliance with licence conditions - in accordance with General condition 6 of the NHS provider licence*

*Availability of resources and accompanying statement - in accordance with Continuity of Services condition 7 of the NHS provider licence (Foundation Trusts designated CRS providers only)*

These self-certifications are set out in this template.

### **How to use this template**

- 1) Save this file to your Local Network or Computer.
- 2) Enter responses and information into the yellow data-entry cells as appropriate.
- 3) Once the data has been entered, add signatures to the document.

**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 licence 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

**3 Continuity of services condition 7 - Availability of Resources (FTs designated CRS only)**

**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.

Please Respond

Please Respond

**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.

Please Respond

Please Respond

**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.

Please Respond

Please Respond

**Statement of main factors taken into account in making the above declaration**

In making the above declaration, the main factors which have been taken into account by the Board of Directors are as follows:

[e.g. key risks to delivery of CRS, assets or subcontractors required to deliver CRS, etc.]

Signed on behalf of the board of directors, and, in the case of Foundation Trusts, having regard to the views of the governors

Signature 

Signature 

Name Alan McCarthy

Name Marianne Griffiths

Capacity Trust Chair

Capacity Chief Executive

Date 04 June 2020

Date 04 June 2020

Further explanatory information should be provided below where the Board has been unable to confirm declarations under G6.

This template may be used by Foundation trusts and NHS trusts to record the self-certifications that must be made under their NHS Provider Licence.  
You do not need to return your completed template to NHS Improvement unless it is requested for audit purposes.

## **Self-Certification Template - Condition FT4**

**Brighton and Sussex Universitys Hospitals NHS Trust**

*Insert name of  
organisation*



Foundation Trusts and NHS trusts are required to make the following self-certifications to NHS Improvement:

*Corporate Governance Statement - in accordance with Foundation Trust condition 4 (Foundations Trusts and NHS trusts)  
Certification on training of Governors - in accordance with s151(5) of the Health and Social Care Act (Foundation Trusts only)*

These self-certifications are set out in this template.

### **How to use this template**

- 1) Save this file to your Local Network or Computer.
- 2) Enter responses and information into the yellow data-entry cells as appropriate.
- 3) Once the data has been entered, add signatures to the document.

Corporate Governance Statement (FTs and NHS trusts)

The Board are required to respond "Confirmed" or "Not confirmed" to the following statements, setting out any risks and mitigating actions planned for each one

Corporate Governance Statement	Response	Risks and Mitigating actions
1 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	The Board is assured from the work of the Audit Committee, its Internal and External Auditors and their opinions received during the year. The Board's view as to its governance processes is reflected within the Trust's Annual Governance Statement. <span style="float: right;">#REF!</span>
2 The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time	Confirmed	The Chief Financial Officer and Trust Board Secretary has made the Board, Audit Committee and Executives aware of monitor guidance and any impact / improvements to be made within Trust systems as a result. <span style="float: right;">#REF!</span>
3 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	These processes were referred to and their effectiveness was considered by the Accountable Officer when drafting the Trust's Annual Governance Statement with this description then considered by the Audit Committee as it endorsed the AGS for submission to the Auditors. Respective Committee reporting to the Board is operating effectively as evidenced by the regular reports to the Board from each Committee Chair. <span style="float: right;">#REF!</span>
4 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 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.	Confirmed	The Board both directly and through its Committee structure has been assured that the Trust's designed systems of internal control have been operating effectively and as intended over the year. Where issues have arisen during the year, for example in respect of operational performance, timely actions have been implemented to improve these areas, albeit the Trust has recognised and reported that it has not met the constitutional targets.  The Trust has delivered its control total and efficiency programme and the Audit Committee has recommended based on the information it has received that the Trust can prepare its financial statements on a going concern basis.  Assurance is obtained as to the quality of the data supporting the Trust's performance reporting through the annual internal audit work programme. The Board has received regular assurance over the delivery of the Trust's control total and efficiency plan. <span style="float: right;">#REF!</span>  Key risks and associated assurance have been reported to the Audit Committee and Board during the year through receipt and review of the Trust's Board Assurance Framework.  Whilst the Trust is required to have undertakings with NHS I as the Trust is within segment 3 of NHS I's Single Oversight Framework, NHS I in the latest undertakings state "The Trust has taken effective action to address its governance failures since the issue of the undertakings of March 2017, but further improvements are required" (regarding operational performance improvement). The improvements are detailed within the Trust's medium term financial plan.
5 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; (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.	Confirmed	There is clear leadership and accountability for the delivery of high quality and safe services within the Trust. This is detailed with the Trust's Quality Account and the statements contained therein. The Board both directly and through its Committee structures ensures that a focus is maintained on the delivery of quality services. There is regular reporting to the Board and our Commissioners of the delivery against the Trust's established quality priorities. These priorities are set in conjunction with the Trust's clinical strategy and annual plan. The effectiveness of these processes was again considered by the Accountable Officer in drafting the Annual Governance Statement which in turn was subject to consideration by the Audit Committee prior to its submission to the Auditors and inclusion within the Annual Report. Internal Audit has provided positive assurances over the Trust's quality management and oversight groups recognising the improvements made during 2018/19 in implementing the recommendations made by the Good Governance Institute. <span style="float: right;">#REF!</span>  The CQC has rated the Trust as "good" overall and outstanding for caring providing further evidence to the Board on the quality of the Trust's services and the CQC has provided positive feedback from their regular engagement visits.
6 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	The Trust has established a process that ensures that all Board Members are "fit and proper" persons. This process has been applied to Board appointments made in the year. An annual review of all Board Members continuation as fit and proper persons has been undertaken and reported to the Audit Committee at the end of the year. The Board through its receipt of Workforce, Leadership and Organisational Development reports has been assured over the actions being taken to mitigate the workforce risks in relation to recruitment and retention complemented by the review undertaken by the Audit Committee in respect of workforce BAF risks. Regular reporting is provided to the Board on the Trust's compliance with the nursing safer staffing levels and the revalidation of its nursing and medical workforce. All transformation schemes are subject to a detailed quality impact assessment and this rigor includes those schemes which include any workforce reduction and through this process the Board is assured that the Trust retains an appropriately qualified workforce to deliver its services. The Trust has a number of established Executive and Senior Management development programmes these activities are designed to support and strengthen the personnel on the Board, those reporting to the Board and those within the rest of the Trust. <span style="float: right;">#REF!</span>

Signed on behalf of the Board of directors, and, in the case of Foundation Trusts, having regard to the views of the governors

Signature  Signature   
 Name Alan McCarthy Name Marijane Griffiths

Further explanatory information should be provided below where the Board has been unable to confirm declarations under FT4.

A Please Respond

Certification on training of governors (FTs only)

The Board are required to respond "Confirmed" or "Not confirmed" to the following statements. Explanatory information should be provided where required.

Training of Governors

- 1 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.

[Redacted response box]

Please Respond

Signed on behalf of the Board of directors, and, in the case of Foundation Trusts, having regard to the views of the governors

Signature

Signature

Name Alan McCarthy

Name Marianne Griffiths

Capacity Trust Chair

Capacity Chief Executive

Date 04 June 2020

Date 04 June 2020

Further explanatory information should be provided below where the Board has been unable to confirm declarations under s151(5) of the Health and Social Care Act

A This is not applicable as BSUH is not a Foundation Trust

[Redacted explanatory information box]