

Compliance with the Provider Licence Conditions

SECTION 1: GENERAL CONDITIONS

	Licence Condition:	Explanation:	Board Assurance:	Lead Director(s):
G1.	Provision of information	This condition requires licensees to provide NHSI/E with any information they may require for licencing functions.	ESHT has robust data collection and validation processes and the proven ability to submit large amounts of accurate, complete and timely information to regulators and other third parties to meet specific requirements.	Director Finance Chief Operating Officer
G2.	Publication of information	This condition contains an obligation for all licensees to publish such information as NHSI/E may require, in a manner that is made accessible to the public.	ESHT is committed to operating in an open and transparent manner. The Board meets in public and agendas, minutes and associated papers are published on the Trust website. The website also contains information and referral point details providing advice to the public and referrers who may require further information about services. Copies of the Trust's Annual Report and Accounts and Quality Account are published on the website and the Trust operates a Freedom of Information publication scheme.	Chief Executive Director of Corporate Affairs
G3	Payment of fees to NHSI	The Health & Social Care Act 2012 ("The Act") gives NHSI the ability to charge fees and this condition obliges licence holders to pay fees to NHSI if requested.	NHSI does not currently charge fees. However, the obligation to pay fees is a condition and will be accounted for within the Trust's financial planning as required. ESHT pays fees to other parties such as the Care Quality Commission and NHS Resolution	Director of Finance

	Licence Condition:	Explanation:	Board Assurance:	Lead Director(s):
G4	Fit and Proper Persons (FPP)	This condition prevents licensees from allowing unfit persons to become or continue as Governors or Directors (or those performing similar or equivalent functions).	<p>All members of the Board and their deputies who may 'act up' into a Board role have been subject to a Disclosure & Barring Service (DBS) check.</p> <p>FPP checks are made upon appointment and Board members are required to sign an annual declaration that they remain a FPP.</p> <p>The CQC reviewed the Trust's Fit and Proper Persons compliance in December 2019 and found the Trust to be compliant.</p> <p>The Trust will review and respond to any FPP requirements following national consideration of the Kark review.</p>	Director of Human Resources
G5	NHS Guidance	This condition requires licensees to have regard to any guidance that NHSI issues.	The Trust has had regard to NHSI guidance through submission of required annual and quarterly planning requirements, declarations and exception reporting.	Director of Finance Chief Operating Officer
G6	Systems for compliance with licence conditions and related obligations	This requires providers to take all reasonable precautions against the risk of failure to comply with the licence and other important requirements.	The Trust has a robust governance framework in place as outlined in the Annual Governance Statement. The Board and its sub Committees (Audit Committee, Quality and Safety Committee, People and Organisational Development Committee and Finance and Investment and Strategy Committee) receive regular reports and supporting data analysis covering patient safety, clinical quality, patient experience, workforce, performance and finance. All Committees undertake a review of their annual work programme and	Chief Executive Director of Corporate Affairs

			<p>effectiveness and revisions are made as required.</p> <p>The Trust has a Risk Management Strategy and processes are in place to enable identification, management and mitigation of current risk and anticipation of future risk. The Risks are identified through incident reporting, risk assessment reviews, clinical audits and other clinical and non- clinical reviews with a clearly defined process of escalation to risk registers. The Board Assurance Framework is reviewed by the Board and its sub committees.</p> <p>The Board has regard to the NHS Constitution, compliance and actions are in place to support delivery and achievement of trajectories.</p>	
G7	Registration with the Care Quality Commission	This licence condition requires providers to be registered with the Care Quality Commission and to notify NHSI if registration is cancelled.	The Trust is registered with the Care Quality Commission without condition.	Chief Executive Director of Corporate Affairs
G8	Patient eligibility and selection criteria	This condition requires licence holders to set transparent eligibility and selection criteria for patients and to apply these in a transparent manner.	<p>The Trust publishes descriptions of the services it provides and who the services are for on the Trust website.</p> <p>Eligibility is defined through commissioners' contracts and the choice framework. Assurance is gained through the patient's assessment stages to ensure that the appropriate services are provided.</p>	Chief Operating Officer

	Licence Condition:	Explanation:	Board Assurance:	Lead Director(s):
G9	Application of Section 5 (Continuity of Services)	<p>This condition applies to all licensees. It sets out the conditions under which a service will be designated as a Commissioner Requested Service. Licensees are required to notify NHSI at least 28 days prior to the expiry of a contractual obligation if no renewal or extension has been agreed.</p> <p>Licensees are required to continue to provide the service on expiry of the contract until NHSI issues a direction to continue service provision for a specified period or is advised otherwise.</p> <p>The conditions when Commissioner Requested Services (CRS) shall cease is set out. Licensees are required under this Condition, to notify NHSI of any changes in the description and quantity of services which they are under contractual or legal obligation to provide.</p>	<p>Requested Services are set within the contracts agreed with commissioners. The Trust has effective working relationships with its commissioning partners within the local health economy.</p> <p>The Finance Director is responsible for leading on contract negotiations and across the Trust there is partnership working to deliver service transformation, efficiency and quality improvement to meet the needs of the local population.</p> <p>Regular meetings take place with NHSI/E and they are notified prior to the expiry of a contractual obligation if no renewal or extension has been agreed.</p>	Chief Executive Director of Finance Chief Operating Officer

SECTION 2 PRICING

	Licence Condition:	Explanation:	Board Assurance	Lead Director
P1.	Recording of information	Under this condition, NHSI may oblige licensees to record information, particularly information about their costs, in line with national guidance.	The Trust records all of its information about costs in line with current guidance.	Director of Finance
P2.	Provision of information	Having recorded the information in line with Pricing condition 1 above, licensees can then be required to submit this information to NHSI.	The Trust complies with any requirements to submit information to NHSI.	Director of Finance
P3.	Assurance report on submissions to NHSI	When collecting information for price setting, it will be important that the submitted information is accurate. This condition allows NHSI to oblige licensees to submit an assurance report confirming that the information that they have provided is accurate.	The Audit Committee receives and monitors all Internal Audit reports	Director of Finance
P4.	Compliance with the national tariff	The Health and Social Care Act 2012 requires commissioners to pay providers a price which complies with, or is determined in accordance with, the National Tariff for NHS health care services. This licence condition imposes a similar obligation	The Trust is on a PbR contract for acute provision and community services are on a block contract. Any local variation is in line with national guidance.	Director of Finance

		on licensees, i.e. the obligation to charge for NHS health care services in line with the National Tariff.		
P5.	Constructive engagement concerning local tariff modifications	The Act allows for local modifications to prices. This licence condition requires licence holders to engage constructively with commissioners, and to try to reach agreement locally, before applying to NHSI for a modification.	As above	Director of Finance

SECTION 3: CHOICE AND COMPETITION

	Licence Condition:	Explanation:	Board Assurance	Lead Director
C1.	Patient Choice	This condition protects patients' rights to choose between providers by obliging providers to make information available and act in a fair way where patients have a choice of provider. This condition applies wherever patients have a choice under the NHS Constitution, or where a choice has been conferred locally by commissioners.	The Trust complies with patient's right to choose and the choice framework	Chief Executive
C2.	Competition Oversight	This condition prevents providers from entering into or maintaining agreements that have the object or effect of preventing, restricting or distorting competition to the extent that it is against the interests of health care users. It also prohibits licensees from engaging in other conduct that has the effect of preventing, restricting or distorting competition to the extent that it is against the interests of health care users.	All licensed provider organisations are treated as 'undertakings' under the terms of the Competition Act 1998. This means that as a licensed provider the Trust is deemed to be an organisation engaging in an 'economic activity' and therefore is required to comply with the Competition Act. The Board and Executive Management team has access to expert legal advice to ensure compliance with this condition.	Chief Executive

SECTION 5: CONTINUITY OF SERVICES

	Licence Condition:	Explanation:	Board Assurance	Lead Director
CoS1.	Continuing provision of Commissioner Requested Services	This condition prevents licensees from ceasing to provide Commissioner Requested Services, or from changing the way in which they provides Commissioner Requested Services, without the agreement of relevant commissioners.	As for condition G9 above.	
CoS 2.	Restriction on the disposal of assets	This licence condition ensures that licensees keep an up to date register of relevant assets used in the provision of Commissioner Requested Services. It also creates a requirement for licensees to obtain NHSI's consent before disposing of these assets when there is concern about the ability of the licensee to carry on as a going concern.	The Finance Department maintains a capital asset register. The Trust complies with requirements regarding disposal of assets.	Director of Finance
CoS 3.	Standards of Corporate Governance and Financial Management	This condition requires licensees to have due regard to adequate standards of corporate governance and financial management. The Risk Assessment Framework will be utilised by NHSI to determine compliance	The Trust has adequate systems and standards of governance, oversight by the Board and establishment and implementation of associated governance systems and processes including those relating to quality and financial management. Refer to the Trust Annual Governance Statement and Annual Report	Chief Executive Director of Finance/Director of Corporate Affairs

CoS 4.	Undertaking from the ultimate controller	<p>This condition requires licensees to put in place a legally enforceable agreement with their 'ultimate controller' to stop ultimate controllers from taking any action that would cause licensees to breach the license conditions. This is best described as a 'parent/subsidiary company' arrangement. If no such controlling arrangements exist then this condition would not apply.</p> <p>Should a controlling arrangement come into being, the ultimate controller will be required to put in place arrangements to protect the assets and services within 7 days.</p> <p>Governors, Directors and Trustees of Charities are not regarded by NHSI as 'Ultimate Controllers'.</p>	<p>The Trust is a Public Benefit Corporation and neither operates or is governed by an Ultimate Controller arrangement so this licence condition would not apply.</p>	Not applicable
CoS 5.	Risk Pool Levy	<p>This licence condition obliges licensees to contribute, if required, towards the funding of the 'risk pool' – this is like an assurance mechanism to pay for vital services if a provider fails.</p>	<p>The regulatory Risk Pool Levy has not come into effect to date.</p> <p>The Trust currently contributes to the NHS Resolution pool for clinical negligence, property expenses and public liability schemes.</p>	Director of Finance

CoS 6.	Cooperation in the event of financial stress	This licence condition applies when a licensee fails a test of sound finances, and obliges the licensee to cooperate with NHSI and any of its appointed persons in these circumstances in order to protect services for patients.	The Trust was removed from Financial Special Measures in 2019 and co-operates fully with NHSI in ensuring it meets its licence obligations.	Director of Finance
CoS 7.	Availability of Resources	This licence condition requires licensees to act in a way that secures access to the resources needed to operate Commissioner Requested Services.	As with the provision of Mandatory Services, the Trust has well established services in place and currently provides all of the Commissioner Requested Services to a high standard. The Trust has forward plans and agreements in place with commissioners that meet this condition.	Director of Finance

SECTION 6: NHS FOUNDATION TRUST CONDITIONS

	Licence Condition:	Explanation:	Board Assurance	Lead Director
FT1.	Information to update the register of NHS Foundation Trusts.	<p>This licence condition ensures that NHS Foundation Trusts provide required documentation to NHSI. NHS Foundation Trust Licensees are required to provide NHSI with:</p> <ul style="list-style-type: none"> • a current Constitution; • the most recently published Annual Accounts and Auditor's report; • the most recently published Annual Report; and • a covering statement for submitted documents. 	<p>The Trust is not an FT and therefore does not have a constitution.</p> <p>Annual Accounts, Auditors Report and Annual Report are all published.</p>	Director of Corporate Affairs
FT2.	Payment to NHSI in respect of registration and related costs.	If NHSI moves to funding by collecting fees, they may use this licence condition to charge additional fees to NHS Foundation Trusts to recover the costs of registration.	Not applicable. See G3 above.	Not applicable
FT3.	Provision of information to advisory panel.	The Act gives NHSI the ability to establish an advisory panel that will consider questions brought by governors. This licence condition requires NHS Foundation Trusts to provide the information requested by an advisory panel.	Not applicable as Trust does not have governors.	Not applicable