

Trust Board 30 April 2019

NHS provider licence

This paper is intended to provide assurance that the Trust complies with the terms of its [Licence](#) and sets out a broad outline of the licence conditions and any issues for Trust Board to note.

The provider licence is split into six sections, which apply to different types of providers.

1. **General conditions (G)** – general requirements applying to all licensed providers.
2. Obligations about **pricing (F)** – obliges providers to record pricing information, check data for accuracy and, where required, charge commissioners in line with tariff. Applies to all licensed providers who provide services covered by national tariff.
3. Obligations around **choice and competition (C)** – obliges providers to help patients make the right choice of provider, where appropriate, and prohibits anti-competitive behaviour where against patients' interests. This applies to all licensed providers.
4. Obligations to enable **integrated care (IC)** – enables the provision of integrated services and applies to all licensed providers.
5. Conditions to support **continuity of services (CoS)** – allows Monitor/NHS Improvement to assess whether there is a risk to services and to set out how services will be protected if a provider gets into financial difficulty. Applies to providers of commissioner requested services (CRS) only.
6. Governance licence **conditions for Foundation Trusts (FT)** – provides obligations for Foundation Trusts around appropriate standards of governance. Applies to Foundation Trusts only.

Condition	Provision	Comments
Section 1 - General conditions (G)		
G1: Provision of information	Obligation to provide Monitor with any information it requires for its licensing functions.	The Trust is currently obliged to provide Monitor/NHS Improvement with any information it requires and, within reasonable parameters, to publish any information Monitor/NHS Improvement requires it to. We have systems in place to identify and respond to routine and ad-hoc requests. Formal articulation of this Condition, therefore, does not present any issues for the Trust although the Conditions are so broad the obligation could become overly burdensome.
G2: Publication of information	Obligation to publish such information as Monitor may require.	

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G3: Payment of fees to Monitor	Gives Monitor the ability to charge fees and for licence holders to pay them.	There are currently no plans to charge a fee to Licence holders. Trust Board should note that there is, currently, no provision in the budget for additional fees and this would, therefore, become a cost pressure.
G4: Fit and proper persons	Prevents licences from allowing unfit persons to become or continue as governors or directors.	<p>The Care Quality Commission (CQC) published the fit and proper person requirements to take effect from 1 October 2014. The Trust has included the requirement for members of Trust Board to make a declaration against the requirements on an annual basis to the Trust Board and has robust arrangements in place for new appointments to the Board (whether non-executive or executive). The Trust Board declaration and register of fit and proper persons, interests and independence policy was last reviewed and approved by Trust Board on 27 March 2018. The declarations are published on the Trust's website.</p> <p>All governors of the Members' Council are required to make a declaration of interest on commencement and on an annual basis which is reported to the Members' Council. The Members' Council declaration and register of interests, gifts and hospitality policy was last reviewed and approved by Members' Council on 27 April 2018. The declarations are published on the Trust's website. All governors of the Members' Council are required to sign a Code of Conduct for Governors on commencement.</p>
G5: Monitor guidance	Requires licensees to have regard to Monitor guidance.	The Trust responds to guidance issued by Monitor/NHS Improvement. Submissions and information provided to Monitor/NHS Improvement are approved through relevant and appropriate authorisation processes.
G6: Systems for compliance with licence conditions and related obligations	Requires providers to take reasonable precautions against risk of failure to comply with the licence.	The Trust has systems and processes in place to ensure it complies with its Licence and this is co-

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		ordinated by the Director of Finance.
G7: Registration with the Care Quality Commission	Requires providers to be registered with the CQC and to notify Monitor if their registration is cancelled.	The Trust is registered with the CQC.
G8: Patient eligibility and selection criteria	Requires licence holders to set transparent eligibility and selection criteria for patients and apply these in a transparent manner.	The Trust's website sets out the service directories for each Business Delivery Unit (BDU) and the relevant access criteria for the services.
G9: Application of section 5 (which relates to continuity of services)	Sets out the conditions under which a service will be designated as a CRS	Covers all services which the licensee has contracted with a Commissioner to provide as a Commission Requested Service (CRS). See CoS1.
Section 2 - Pricing conditions (P)		
P1: Recording of information	Obligation of licensees to record information, particularly about costs.	The Trust responds to guidance and requests from Monitor/NHS Improvement. Information provided is approved through the relevant and appropriate authorisation processes. The Trusts' accounting systems and processes ensure appropriate recording of cost information. The Trust's accounts are subject to both internal and external audit each year.
P2: Provision of information	Obligation to submit the above to Monitor.	
P3: Assurance report on submissions to Monitor	Obliges licensees to submit an assurance report confirming that the information provided is accurate.	
P4: Compliance with the National Tariff	Obliges licensees to charge for NHS health care services in line with national tariff.	All contracts are agreed annually and are in line with the national tariff. The Trust continues to work with its commissioners on the requirement to develop a local tariff within the terms of national guidance.
P5: Constructive engagement concerning local tariff modifications	Requires licence holders to engage constructively with commissioner and to reach agreement locally before applying to Monitor/NHS Improvement for a modification.	See P4.
Section 3 - Choice and competition (C)		
C1: Patient choice	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.	The Trust has in place a service directory setting out the services available. Commissioners monitor the Trust's compliance with the legal right of choice as part of contract monitoring in line with NHS Standard Contract requirements.
C2: Competition oversight	Prevents providers from entering into or maintaining agreements that have the effect of	Trust Board has reviewed its position and considers that it has no arrangements that could

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	preventing, restricting or distorting competition to the extent that it is against the interests of health care users.	be perceived as having the effect of preventing, restricting or distorting competition in the provision of health services. The Trust is aware of the requirements of competition in the health sector and would seek legal and/or specialist advice should Trust Board and Members' Council decide to consider any structural changes, such mergers or joint ventures.
Section 4 - Integrated care condition (IC)		
IC1: Provision of integrated care	Requires Licensee to act in the interests of people who use healthcare services by facilitating the development and maintenance of integrated services.	The Trust actively works with its partners, through formal and informal mechanisms to foster and enable integrated care and is involved in several pilots aimed at developing new ways of working and new models of delivery. A number of services provided are done so through partnership working with other local stakeholders. The Trust plays an active role in Integrated Care Systems in West Yorkshire & Harrogate and South Yorkshire & Bassetlaw, and signatory to a Memorandum of Understanding with both.
Section 5 - Continuity of service (CoS)		
CoS1: Continuing provision of commissioner requested services (CRS)	Prevents licensees from ceasing to provide CRS or from changing the way in which they provide CRS without the agreement of relevant commissioners.	As part of contract negotiations, the Trust has agreed CRS with commissioners, with the exception of Barnsley, that all mental health services will be considered as CRS. Barnsley Clinical Commissioning Group has reviewed the guidance and has determined that services provided under their contract will not be designated as Essential or CRS.
CoS2: Restriction on the disposal of assets	Licensees must keep an up-to-date register of relevant assets used in commissioner requested services (CRS) and to seek Monitor/NHS Improvement's consent before disposing of these assets if Monitor has concerns about the licensee continuing as a going concern.	As the majority of services the Trust provides are classed as CRS, all assets associated with these services are classed as restricted and these can be identified by the Trust. Any changes to estate and the asset base are discussed with commissioners in relation to the provision of services. The Trust has an asset register in place.

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		The Trust is only required to seek Monitor/NHS Improvement's consent for disposal of assets if Monitor/NHS Improvement is concerned about its ability to continue as a going concern.
CoS3: Standards of corporate governance and financial management (Monitor/NHS Improvement risk rating)	Licensees are required to adopt and apply systems and standards of corporate governance and management, which would be seen as appropriate for a provider of NHS services and enable the Trust to continue as a going concern.	The Trust has robust and comprehensive corporate and financial governance arrangements in place. These are subject to both internal and external audit annually. All audit plans are agreed by the Audit Committee and similarly all audit reports are received and reviewed at the Audit Committee
CoS4: Undertaking from the ultimate controller	Requires licensees to put a legally enforceable agreement in place to stop the ultimate controller from taking action that would cause the licensee to breach its licensing conditions.	Does not apply to the Trust.
CoS5: Risk pool levy	Obliges licensees to contribute to the funding of the 'risk pool' (insurance mechanism to pay for vital services if a provider fails).	There is currently no risk pool levy in place.
CoS6: Co-operation in the event of financial stress	Applies when a licensee fails a test of sound finances and obliges the licensee to co-operate with Monitor.	The Trust is aware it would need to co-operate with Monitor/NHS Improvement in such circumstances. The Trust submits periodic financial returns to NHS Improvement, participates in a Quarterly Review Meeting (QRM) with NHS Improvement and liaises extensively on financial matters.
CoS7: Availability of resources	Requires licenses to act in a way that secures resources to operate commissioner requested services (CRS).	The Trust has sound and robust processes and systems in place to ensure it has the resources necessary to deliver CRS.
Section 6 - Foundation Trust conditions (FT)		
FT1: Information to update the register of NHS foundation trusts	Obliges foundation trusts to provide information to Monitor.	See G1. The Trust is currently obliged to provide Monitor/NHS Improvement with any information it requires, including information to update its entry on the register of NHS foundation trusts and has processes in place to ensure it complies with such requirements
FT2: Payment to Monitor in respect of registration	The Trust would be required to pay any fees set by	Monitor/NHS Improvement has undertaken not to

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and related costs	Monitor.	levy any registration fees on foundation trusts without further consultation.
FT3: Provision of information to advisory panel	Monitor has established an independent advisory panel to consider questions brought by governors. Foundation trusts are obliged to provide information requested by the panel.	The independent advisory panel was established by Monitor in April 2013 and the Trust provided a briefing on the Panel to the Members' Council. This Panel has since been disbanded by Monitor/NHS Improvement.
FT4: NHS Foundation Trust governance arrangements	Gives Monitor continued oversight of the governance of foundation trusts.	The Trust has sound governance processes in place and reviews of these arrangements are a core part of the internal audit annual work programme. This was also evidenced in the outcome of the well-led review of the Trust's governance arrangements in 2015/16 and by subsequent CQC reviews