

## SOMERSET NHS FOUNDATION TRUST

### BOARD DECLARATIONS RELATING TO THE PROVIDER LICENCE AND THE HEALTH AND SOCIAL CARE ACT

Report to the Board – 4 May 2021

<b>Sponsoring Director:</b>	Director of Governance and Corporate Development
<b>Author:</b>	Secretary to the Trust
<b>Executive Summary:</b>	<p>NHS foundation trusts are required to make the following declarations after the end of the financial year:</p> <ul style="list-style-type: none"><li>• systems for compliance with licence conditions – in accordance with General condition 6 of the NHS provider licence;</li><li>• availability of resources and accompanying statement – in accordance with the Continuity of service condition 7 of the NHS provider licence;</li><li>• Corporate Governance Statement – in accordance with the FT 4 condition of the NHS provider licence</li><li>• certification on training of Governors – in accordance with s151(5) of the Health and Social Care Act.</li></ul> <p>The Trust is now no longer required to submit the declarations to NHS England/Improvement but the Board is required to sign off the declarations and publish the self certifications.</p> <p>The Trust intends to also make positive confirmations on all declarations.</p>

	<p>The Board is required to seek the views of Governors in relation to Conditions 4 and 6 and the certification on training of Governors. Due to the earlier date of the Board meeting, Governors views will be sought by email.</p> <p>It is proposed that the declarations are approved pending feedback from Governors and that any changes to the declarations are approved by the Board by email following the receipt of any comments from Governors.</p>
<b>Recommendation(s):</b>	To discuss and approve compliance with the required declarations pending feedback from Governors and to agree that any significant changes to the declarations are approved by the Board by email.

<b>Action Required</b> (Please put a ✓ against any actions required)							
For approval	✓	For assurance		For information		For discussion	

<b>Links to the Assurance Framework and Corporate/Directorate Risk Register</b> (Please include relevant risks and the current risk rating)
Not linked to a specific strategic objective or risk as the report is part of a regulatory requirement.

<b>Financial, Staffing, Legal/Statutory Implications/requirements</b> (Please indicate whether there are any financial and/or legal/statutory implications by putting a ✓ against the relevant box. (Please also provide the necessary details))		
Financial		
Staffing		
Legal/Statutory	✓	Under the terms of its licence the Trust is required to approve and publish the annual declaration.

<b>Equality</b>	
The Trust wants its services to be as accessible as possible, to as many people as possible. Please indicate whether the report has an impact on the protected characteristics and put a ✓ against one of the two options set out below	
1. This report has been assessed against the Trust's Equality Impact Assessment Tool and there are no proposals or matters which affect any persons with protected characteristics or	✓
2. This report has been assessed against the Trust's Equality Impact Assessment Tool and there are proposals or matters which affect any persons with protected characteristics and the following is planning to mitigate any identified inequalities:	

<b>Public/Staff Involvement History</b>
(Please indicate if any consultation/service user/patient and public/staff involvement has informed any of the recommendations within the report)
Not Applicable.

**SOMERSET NHS FOUNDATION TRUST**  
**NHS PROVIDER LICENCE DECLARATIONS**

**1. GENERAL CONDITIONS 6 – SYSTEMS FOR COMPLIANCE WITH LICENCE CONDITIONS**

1.1 Paragraphs 1 and 2 of General Conditions 6 state that:

1. The Licensee shall take all reasonable precautions against the risk of failure to comply with:
  - (a) the Conditions of this Licence;
  - (b) any requirements imposed on it under the NHS Acts, and;
  - (c) the requirement to have regard to the NHS Constitution in providing health care services for the purposes of the NHS.
2. Without prejudice to the generality of paragraph 1, the steps that the Licensee must take pursuant to that paragraph shall include:
  - (a) the establishment and implementation of processes and systems to identify risks and guard against their occurrence; and;
  - (b) regular review of whether those processes and systems have been implemented and of their effectiveness.

1.2 The Trust is intending to declare full compliance with the following statement:

“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.”

**2. GENERAL CONDITIONS 6 – SYSTEMS FOR COMPLIANCE WITH LICENCE CONDITIONS**

2.1 The Trust is intending to declare full compliance with the following statement:

*“The Board declares that the Licensee continues to meet the criteria for holding a licence.”*

### **3. CONTINUITY OF SERVICES CONDITION 7 – AVAILABILITY OF RESOURCES**

3.1 The Trust is required to make one of the following statements:

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.

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 which may cast doubt on the ability of the Licensee to provide Commissioner Requested Services.

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.

3.2 The Trust will declare compliance with statement 3a. The basis for this compliance statement is the 2020/21 year end position, the rigorous cost improvement programmes, the ongoing merger benefits and the presentation of the financial plan for 2021/22 to the May 2021 Board meeting.

### **4. CONDITION FT4 - CORPORATE GOVERNANCE STATEMENT**

4.1 It was recommended that the Board declares compliance with the standards marked in italics below. The sources of evidence for the standards are set out in Appendix 1.

4.2 *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.*

- 4.3 *The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time.*
- 4.4 *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; and*
  - (c) Clear reporting lines and accountabilities throughout its organisation.*
- 4.5 *The Board is satisfied that the Trust has established and effectively implements systems and/or processes:*
- (a) To ensure compliance with the Trust's duty to operate efficiently, economically and effectively;*
  - (b) For timely and effective scrutiny and oversight by the Board of the Trust's operations;*
  - (c) To ensure compliance with health care standards binding on the Trust 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 Trust'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.*

4.6 *The Board is satisfied that the systems and/or processes referred to 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 it 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.*

4.7 *The Board is satisfied that there are systems to ensure that it 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.*

## **5. TRAINING OF GOVERNORS**

5.1 The Trust is required to confirm compliance with the following statement:

*“The Board is satisfied that during the financial year most recently ended the Trust 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.”*

5.2 The Trust is intended to declare full compliance with the above statement on the basis that a development programme has been put in place by way of Governor Development Days. The agenda for the Development Days is set by Governors and takes account of the skills

and knowledge needs of Governors. Governors are also invited to attend specific training events, including the South West Exchange Network meetings and NHS Providers events

**DIRECTOR OF GOVERNANCE AND CORPORATE DEVELOPMENT**

## Appendix 1 – Sources of assurance for Condition FT4 – Corporate Governance Statement

Text of the Statement	Evidence / Sources of assurance on which Board members may choose to rely
<p>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 healthcare services to the NHS.</p>	<ul style="list-style-type: none"> <li>• Internal Audit (BDO) and External Audit (KPMG) plans include full range of audits to give assurance in this area (via Audit Committees to Board)</li> <li>• Annual Governance Statement.</li> <li>• Head of Internal Audit Opinion.</li> <li>• Annual Audit Letter 2019/20.</li> <li>• Monthly quality, performance, and finance reports to the Board.</li> <li>• Board Assurance Framework and Corporate Risk Register.</li> <li>• Care Quality Commission inspection reports and action plans.</li> <li>• Well Led Review and action plan.</li> <li>• Board effectiveness audit report.</li> <li>• Financial Plan 2020/21.</li> <li>• Review and implementation of new directorate structures.</li> <li>• Risk Management strategy and implementation of new risk management system</li> </ul>
<p>The board has regard to such guidance on good corporate governance as may be issued by NHS England/ Improvement from time to time.</p>	<ul style="list-style-type: none"> <li>• Processes in place to ensure this is flagged (usually via Audit Committees), with back up provided by regular updates on new guidance from internal and external audit.</li> <li>• New guidance is also flagged through NHS Providers.</li> </ul>
<p>The board is satisfied that the Trust implements:</p> <p>(a) effective board and committee structures</p> <p>(b) clear responsibilities for its board, for committees reporting to the board and for staff reporting to the board and those committees</p> <p>(c) clear reporting lines and accountabilities throughout its organisation.</p>	<ul style="list-style-type: none"> <li>• Internal and external review of the Board and committee structure as part of the merger with Taunton and Somerset NHS Foundation Trust</li> <li>• Review of the effectiveness of the Board, and the use of Development Days to strengthen the strategic focus of the Board.</li> <li>• Reports/minutes from Committees to the Board.</li> <li>• The Trust's Constitution (including Standing Orders).</li> <li>• Standing Financial Instructions.</li> <li>• Scheme of Delegation.</li> <li>• Committee and Governance Group Terms of Reference and annual review of the Terms of References.</li> <li>• Review of the Directorate structure.</li> </ul>

Text of the Statement	Evidence / Sources of assurance on which Board members may choose to rely
<p>The board is satisfied that Somerset Partnership NHS Foundation Trust effectively implements systems and/or processes:</p> <p>(a) to ensure compliance with the licence holder's duty to operate economically, efficiently and effectively</p> <p>(b) for timely and effective scrutiny and oversight by the board of the licence holder's operations</p> <p>(c) to ensure compliance with healthcare standards binding on the licence holder including, but not restricted to, standards specified by the Secretary of State, the Care Quality Commission, the NHS Commissioning Board and statutory regulators of healthcare professions</p> <p>(d) for effective financial decision-making, management and control including, but not restricted to, appropriate systems and/or processes to ensure the licence holder's ability to continue as a going concern</p> <p>(e) to obtain and disseminate accurate, comprehensive, timely and up-to-date information for board and committee decision-making</p> <p>(f) to identify and manage (with, but not restricted to, forward plans) material risks to compliance with the conditions of its licence</p> <p>(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</p> <p>(h) to ensure compliance with all applicable legal requirements.</p>	<ul style="list-style-type: none"> <li>• Well-led reviews (3 years) and action plan.</li> <li>• Review of Board and committee effectiveness.</li> <li>• Committee and Governance Group terms of reference.</li> <li>• Constitutional documents (standing orders, standing financial instructions, scheme of reservation and delegation and Constitution).</li> <li>• Governance framework, including internal audit of governance processes.</li> <li>• Internal audit plan, reports and opinion.</li> <li>• External audit plan and Annual Audit Letter.</li> <li>• Counter-fraud work plan and reports.</li> <li>• Risk management processes (including corporate risk register, board assurance framework and risk management strategy).</li> <li>• Regular Board and committee meetings' cycle (e.g. Audit Committee, and Quality and Governance Committee, Finance Committee oversight and progress reports from the Committees to the Board).</li> <li>• Operational plan, business action plan and monitoring arrangements.</li> <li>• Performance reports to the Board (monthly) – including HR and quality.</li> <li>• Safer staffing progress reports, including review of Safer Staffing arrangements to the Board.</li> <li>• Financial performance report to the Board (monthly) and to the Finance Committee; approval of the revenue and capital budgets by the Board and close monitoring arrangements of the cost improvement programme.</li> <li>• Performance monitoring process and review by the directorates.</li> <li>• Patient experience reports to the Council of Governance and Quality and Governance Committee, including feedback from the Friends and Family Tests, and patient story to the Board.</li> <li>• People Strategy and implementation of the year three priorities.</li> <li>• Annual report, quality report, annual account and annual governance statement.</li> <li>• System working</li> </ul>

Text of the Statement	Evidence / Sources of assurance on which Board members may choose to rely
	<ul style="list-style-type: none"> <li>• CQC inspection report ('Good' overall) and action plan; Care Quality Commission Mental Health Act compliance reports.</li> <li>• Going Concern statement to the Audit Committee and Board.</li> <li>• Alliance work with Yeovil District Hospital NHS Foundation Trust.</li> <li>• Performance review meetings with regulators.</li> <li>• System financial plan.</li> <li>• Leadership Walkrounds.</li> </ul>
<p>The board is satisfied:</p> <p>(a) there is sufficient capability at board level to provide effective organisational leadership on the quality of care provided</p> <p>(b) the board's planning and decision-making processes take timely and appropriate account of quality of care considerations</p> <p>(c) accurate, comprehensive, timely and up-to-date information on quality of care is collected</p> <p>(d) it receives and takes into account the accurate, comprehensive, timely and up-to-date information on quality of care</p> <p>(e) Somerset NHS Foundation 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</p> <p>(f) 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.</p>	<ul style="list-style-type: none"> <li>• Annual performance review of the Chief Executive by the Chairman;</li> <li>• Annual performance review of each Executive Director by the Chief Executive and feedback provided to the Remuneration Committee.</li> <li>• Annual personal development plan agreed for the Chief Executive and Executive Directors.</li> <li>• Annual review of the Chairman by the Council of Governors.</li> <li>• Annual review of Non-Executive Directors by the Chairman and Nomination and Remuneration Committee.</li> <li>• Medical Director and Director of Nursing as Executive members of the Trust Board.</li> </ul>