

BIRMINGHAM AND SOLIHULL MENTAL HEALTH NHS FOUNDATION TRUST

BOARD OF DIRECTORS TO BE HELD ON WEDNESDAY 27 APRIL 2011

2010/11 Monitor Compliance Framework – Quarter 4 Declaration of Compliance

The Board is recommended to:

- Approve that there are no exceptions to report for the purposes of the quarter 4 finance declaration of compliance and that the Board self certifies that a financial risk rating of at least 3 will be maintained.
- Consider the information contained within Appendix 1, section 2 of the report with regards to the quarter 4 governance declaration, specifically the implications of the CQC responsive review on the Trust's declaration

1. Introduction

1.1 As part of Monitor's Compliance Framework, the Trust is required to submit in-year quarterly declarations of compliance related to the following areas:

- Finance – quarterly financials and YTD financials and self certification that the board anticipates that the NHS foundation trust will continue to maintain a financial risk rating of at least 3 over the next 12 months.
- Governance
 - self-certification that all healthcare targets and indicators have been met;
 - report any changes in the board or board of governors;
 - report on the results of any elections including turnout rates
 - report any material or prospective changes which may affect the trust's ability to comply with the terms of its authorisation.

1.2 Trust Board is asked to note that the 2010/11 Compliance Framework strengthens the governance requirements by inclusion of and alignment to other national requirements including the NHS Operating Framework and the CQCs registration requirements. There is a greater focus on 'early warning triggers' whilst still retaining the emphasis of evidence-based self-certification and assurance required via Trust Board.

1.3 Trust Board is asked to note that Monitor guidance issued in-year on interim changes to the Compliance Framework with effect from quarter 1 have been incorporated into the Trust's assessment process. This includes changes in the scoring of governance risk and the removal of the requirement to submit action plans for failing targets or where governance is rated amber-red. 'Significant' breaches however will continue to require action plans.

1.4 Trust Board is asked to note that, following consultation, Monitor has published its 2011/12 Compliance Framework on 31 March 2011. Via PMIB, the Trust's declaration process for next year will incorporate revisions that have been made.

2. 2010/11 Monitor Reporting Process

2.1 Monitor issue two templates that need to be signed by the Chief Executive on behalf of Trust Board.

In Year Finance Declaration: This is a relatively straightforward assessment on the Trust's financial standing. Based on the Trust's performance in 2010/11 and the plans in place for the next 12 months, it is recommended that Declaration 1 is made showing full compliance.

Declaration 1: Trust Board anticipates that the Trust will continue to maintain a financial risk rating of at least 3 over the next 12 months.

- i) **In year Governance Declaration** – This is a more complex declaration. A Governance risk rating is automatically calculated within Monitor’s excel template from Green, Amber-Green, Amber-red to Red. This is based on delivery of Monitor specified targets, compliance with the CQC registration requirements and ensuring that the terms of authorisation continue to be met.

Green =	A score of less than 0.9
Amber - green =	A score from 1.0 to 1.9
Amber – red =	A score from 2.0 to 2.9
Red =	A score greater than or equal to 3

The above overall risk rating score is informed by compliance levels against the following areas of assessment:

- i) Service performance
- ii) Clinical quality, patient safety and mandatory services and
- iii) An assessment against Monitor’s non exhaustive list of exceptions.

The Trust Board is therefore required to approve one of the following two declarations of compliance:

Declaration 1: The Board confirms that all healthcare targets and indicators have been met (after application of thresholds) over the period and that plans in place are sufficient to ensure that all known targets and indicators, including those which will come into force during 2010/11 will be met/continue to be met.

Details of any elections (including turnout rates) and any changes in the Board or Board of Governors are included in this return.

Declaration 2: For one or more targets the Board cannot make Declaration 1 and has provided relevant details on worksheet “Targets and Indicators” in this return. The Board confirms that all other healthcare targets and indicators have been met over the period (after application of thresholds) and that sufficient plans are in place to ensure that all known targets and indicators that will come into force will also be met.

Details of any elections (including turnout rates) and any changes in the Board or Board of Governors are included in this return.

Should Declaration 2 be submitted, Monitor have confirmed that from quarter 1, a rating of ‘amber-green’ or ‘amber-red’ in itself does not require an action plan unless there are areas of ‘significant’ breach.

Appendix 1 outlines compliance against each of the above three areas. Trust Board is asked to consider the information contained within Appendix 1, section 2 of the report, specifically the implications of the CQC responsive review on the Trust’s declaration.

In summary, based on the Amber-Red rating that will be generated by the CQC responsiveness review, it recommended that the Trust submit a declaration 2 for governance at Q4.

Finally, it is recommended that a formal update is provided to Monitor on the proposals to recruit to a new Chair, Non Executive Director and the arrangements for covering the Director of Resources position.

BOARD DIRECTOR SPONSOR

Chris Tidman, Executive Director of Resources / Deputy CEO

APPENDIX 1: Items covered by self-certification for In Year Governance

1. Service Performance: As outlined below, the Trust has met Monitor’s threshold for the 8 indicators (where applicable).

	Monitor Indicators – 2010/11	Monitor Threshold	Score for non compliance	Q 1	Q2	Q 3	Q 4	YTD at Q4
1.	100% of Care programme Approach (CPA) patients receiving follow-up contact within seven days of discharge from hospital	95%	0.5	96.6%	96.4%	98.2%	96.2%	96.9%
2.	100% of Care programme Approach (CPA) patients receiving formal review in past 12 months	95%	0.5	95.3%	95.07%	95.6%	95.6%	95.6%
3.	Minimising delayed transfers of care - (Excluding social care delays)	<7.5%	1.0	3.8%	3.13%	3.2%	2%	2.9%
4.	Admissions to inpatient services having access to crisis resolution home treatment teams	90%	1.0	99.3%	98.5%	99.3%	98.6%	99%
5.	Meeting commitment to serve new psychosis cases by early intervention teams based on trajectories agreed with Commissioners.	95%	0.5	100%	100%	100%	100%	100%
6.	MHMDS Data completeness - identifiers: NHS number, Date of birth, postcode, gender, marital status, GP code and Commissioner code.	99%	0.5	99.1%	99.3%	99.3%	99.5%	99.5%
7.	Access to healthcare for people with learning disabilities – compliance against 6 criteria.	n/a	0.5	Compliant				
8.	MHMDS Data completeness - outcomes: <ul style="list-style-type: none"> • % discharged patients with employment status recorded • % discharged patients with accommodation status recorded • % having HONOS assessment in past 12 months 	50% (introduced from quarter 3)	0.5	N/A	N/A	78.5%	82.8%	79.6%

2. Clinical quality and patient safety assessment criteria:

<i>CQC governance risk scoring metrics</i>	
Description	Score
CQC compliance condition(s) on registration	Amber-green
CQC restrictive compliance condition(S) on registration	Amber-red
Moderate CQC concerns regarding the safety of healthcare provision	1.0
Major CQC concerns regarding the safety of healthcare provision	2.0
Failure to rectify a compliance or restrictive condition by the date set by the CQC	3.0

The CQC have formally reported on the 'responsive review' of the Trust in relation to the following 5 regulation outcome groups. A more detailed paper has been produced for separate consideration by Trust Board. In summary however, the CQC's recommendation on each outcome group is outlined in the table below:

Outcome Group reviewed by the CQC	CQC Recommendation
Outcome 4 - care and welfare of people who use services	Moderate concern
Outcome 7 - safeguarding people who use services from abuse	Major concern
Outcome 13 – staffing	Moderate concern
Outcome 14 – supporting workers	Moderate concern
Outcome 18 – Notification of death of a person who use services.	Moderate concern

It should be noted that Monitor will automatically take the view that any FT with a major CQC concern should be Amber-Red rated whilst that concern remains in place. In certain circumstances, Monitor reserve the right to escalate the rating to Red.

Trust Board is asked to note that although the outcomes of the CQC responsive review were formally communicated on 4th April (falling into quarter 1 of 2011/12), the review itself was undertaken during quarter 4 and applies to findings during this period. It is therefore recommended that the outcomes of the review should be reflected in the Trust's declaration for quarter 4 rather than quarter 1 of 2011/12. Based on the action plan submitted to the CQC, it is anticipated that the Trust should be able to move back to either Amber – Green or Green by the Q1 declaration.

In summary, based on the Amber-Red rating that will be generated by the CQC responsiveness review, it recommended that the Trust submit a declaration 2 for governance at Q4.

Declaration 2: For one or more targets the Board cannot make Declaration 1 and has provided relevant details on worksheet "Targets and Indicators" in this return. The Board confirms that all other healthcare targets and indicators have been met over the period (after application of thresholds) and that sufficient plans are in place to ensure that all known targets and indicators that will come into force will also be met.

Finally, it is recommended that a formal update is provided to Monitor on the proposals to recruit to a new Chair, Non Executive Director and the arrangements for covering the Director of Resources position.

3. Exception reporting related to in-year material, actual or prospective changes that impact on the Trust's ability to comply with any aspect of their Authorisation:

- i) Confirmation that the board is satisfied that it has, and will keep in place, effective arrangements for the purpose of monitoring and continually improving the quality of healthcare provided to its patients.

	Requirement	Quarter 4 exceptions
Board roles, structures and capacity	Register of conflicts maintained and no material conflicts (<i>confirmed by the Trust Solicitor</i>)	None
	Directors qualified to discharge board functions, including setting strategy, monitoring and managing performance and ensuring management capacity and capability	None
	Selection and training in place	None
	Management team has experience to deliver annual plan	None
	Management structure can deliver forward plan	None
Compliance with the Authorisation	Will comply at all times with the Authorisation and legislation	None
	All risks to compliance addressed	None

- ii) Non-exhaustive list of items requiring exception reporting:

	Requirement	Quarter 4 exceptions
Finance	Unplanned significant reduction(s) in income or significant increase(s) in costs	None
	Requirements for working capital facilities beyond those incorporated in breach of PBL limits	None
	Failure to comply with the <i>NHS FT Annual Reporting Manual</i>	None
	Discussions with external auditors which may lead to a qualified audit report	None
	Major investments that could affect the financial risk rating or which may result in an 'investment adjustment'	None
	Major joint ventures	None
Governance	Events suggesting material issues with governance processes and structures, e.g. <ul style="list-style-type: none"> • Removal of director(s) for abuse of office • Significant contractual or non-contractual dispute with an NHS body • Adverse report from internal auditors Relevant third party investigations e.g., fraud, any relevant Care Quality Commission reviews, investigations or studies	None
	Significant third party investigations that suggest material issues with governance e.g. fraud, CQC reports, NPSA reports	None
Mandatory services	Other patient safety issues which may impact the authorisation (e.g. serious incidents requiring investigations)	None
	Non-attendance of newly-appointed chair or chief executive at Monitor induction seminar within 6 months of appointment	None
	Proposals to vary mandatory service provision or dispose of assets including: <ul style="list-style-type: none"> o cessation or suspension of mandatory services o variation of Authorisation or asset protection processes 	None
Other	Loss of accreditation of a mandatory service	None
	Explanations for qualified or missing self-certifications for any item from list above	None
	Enforcement notices from other bodies implying potential or actual significant breach of any other requirement in the Authorisation eg health and safety executive or fire authority notices	None
	Reporting of breaches in information governance (including data losses)	None
	Proposed service changes which may be impacted by the Principles and Rules of Cooperation and Competition	None