

EAST KENT HOSPITALS UNIVERSITY NHS FOUNDATION TRUST

REPORT TO:	BOARD OF DIRECTORS
DATE:	24 APRIL 2015
SUBJECT:	COMPLIANCE FRAMEWORK QUARTERLY SUBMISSION QTR 4 2014/15
REPORT FROM:	INTERIM DIRECTOR OF FINANCE & PERFORMANCE MANAGEMENT AND DIRECTOR OF OPERATIONS
PURPOSE:	Decision

CONTEXT / REVIEW HISTORY

The *Risk Assessment Framework*, issued by Monitor in August 2013, sets out the approach by which they will assess the risks to the continued provision of NHS services. Monitor will use this framework to undertake an assessment of each Foundation Trust to identify:

- A risk to the financial stability of the provider of key NHS services which endangers the continuity of those services; and/or
- Poor governance at an NHS Foundation Trust.

The above will be assessed separately by Monitor and each NHS Foundation Trust will be assigned two ratings.

Continuity of services rating

The rating allocated by Monitor will be their view of the level of risk to the ongoing availability of key NHS services and the risk of a provider failing to carry on as a going concern. Main categories of in-year submissions are:

- Latest quarter financials;
- Year to date financials;
- Financial commentary;
- Forward financial events.

The rating incorporates two common measures of financial robustness: Liquidity; and capital servicing capacity. There are five rating categories:

- Rating 4: No action.
- Rating 3: Emerging or minor concern, potentially requiring scrutiny
- Rating 2*: Level of risk is material but stable
- Rating 2: Material risk
- Rating 1: Significant financial risk

Governance rating

NHS Foundation Trusts are subject to the NHS foundation trust condition 4 (the governance condition) in their licence. Monitor will use a combination of existing and new methods to assess the governance issues of NHS Foundation Trusts. Main categories of in-year submissions are:

- Performance against national standards;
- CQC information;
- Clinical quality metrics;
- Information to assess membership engagement.

There are three categories to the new governance rating applicable to all NHS Foundation Trusts:

- Green Rating: where there are no grounds for concern;
- Written description of concerns: where action is being considered but not yet taken; and
- Red: when enforcement action has begun

Exception Reporting

Monitor requires licence holders to notify them of any incidents, events or reports which may reasonably be regarded as raising potential concerns over compliance with their licence. This applies to all licence conditions, not just the conditions that are the focus of the *Risk Assessment Framework*. An exception report should describe:

- The issue that has arisen or will arise, the magnitude and when it occurred or will have an effect.
- Actions planned to address the issue.
- List of affected parties.
- How the licence holder plans to notify these parties of the issue.

The *Risk Assessment Framework* makes it clear that the role of the ratings is to indicate when there is a cause for concern at a provider. Ratings will not automatically indicate a breach of a Foundation Trust licence or trigger regulatory action. Monitor will use their ratings to consider when a more detailed investigation may be necessary to establish the scale and scope of any risk.

SUMMARY:

The report is divided into four sections outlining performance as at Quarter 2 and is summarised below:

Section 1 – Continuity of Services

It is recommended that the Board of Directors, on assuring themselves of the evidence, declare that the Continuity of Services Risk Rating for Q2 is confirmed as:

- Rating : 3
- The Board anticipates that the Trust will operate under a Continuity of Service. Risk Rating of 2 over the next 12 months.

Section 2 – Governance Rating

It is recommended that the Board of Directors, on assuring themselves of the evidence, declare that not all healthcare targets and indicators have been met. However, even if the Trust had met all targets during Quarter 4, the Trust would be rated as red due to special measures.

Section 3 – Exception Reports

Exception reports are included for the following areas of non-compliance:

- *Referral to Treatment Waiting Times*
- *A&E 4 hour wait performance*
- *Cancer symptomatic breast*

Section 4 – Additional Information

Additional information has been included related to the following:

- Invited Review – Royal College of Surgeons/High Risk Surgery Update
- CQC Visit Update
- Board Changes
- Governor changes

RECOMMENDATIONS:**Section 1 – Continuity of Services**

It is recommended that the Board of Directors, on assuring themselves of the evidence, declare that the Continuity of Services Risk Rating for Q2 is confirmed as:

- Rating : 3
- The Board anticipates that the Trust will operate under a Continuity of Service. Risk Rating of 2 over the next 12 months.

Section 2 – Governance Rating

It is recommended that the Board of Directors, on assuring themselves of the evidence, declare that not all healthcare targets and indicators have been met.

NEXT STEPS:

To incorporate any changes discussed at Board and arrange for submission to Monitor by the deadline of 30 April 2015.

IMPACT ON TRUST'S STRATEGIC OBJECTIVES:

Demonstrates the extent to which strategic objectives are being achieved.

LINKS TO BOARD ASSURANCE FRAMEWORK:

AO10: Maintain strong governance structures and respond to external regulatory reports and guidance.

A09: Finance: Ensure strong financial governance, agree contracts with commissioners that deliver sufficient activity and finance and supports a comprehensive internal cost improvement programme where all divisions deliver cash releasing savings schemes to deliver Trust QIPP targets.

IDENTIFIED RISKS AND RISK MANAGEMENT ACTIONS:

Exception reports are included for the following areas of non-compliance:

- *Referral to Treatment Waiting Times*
- *A&E 4 hour wait performance*
- *Cancer symptomatic breast*

FINANCIAL IMPLICATIONS:

No direct implications, although investment may be required where the need for corrective action is identified.

LEGAL IMPLICATIONS / IMPACT ON THE PUBLIC SECTOR EQUALITY DUTY:

The *Risk Assessment Framework 2013/14* serves as guidance as to how Monitor will assess governance and financial risk at NHS foundation trusts as reflected by compliance with the Continuity of Services and governance conditions. NHS foundation trusts are required by their licence to have regard to this guidance.

Monitor's *Enforcement Guidance* sets out Monitor's approach to prioritising and taking regulatory action where a breach of a licence condition is likely or has occurred.

PROFESSIONAL ADVICE TAKEN ON ANY NOVEL OR CONTENTIOUS ISSUES

Not applicable.

BOARD ACTION REQUIRED:

This report recommends that the Board of Directors declare that not all healthcare targets and indicators have been met during the quarter.

CONSEQUENCES OF NOT TAKING ACTION:

Monitor's *Enforcement Guidance* sets out Monitor's approach to prioritising and taking regulatory action where a breach of a licence condition is likely or has occurred.