Ashford and St. Peter's Hospitals NHS
NHS Foundation Trust

TRUST BOARD
27th January 2011

TITLE	**Monitor Consultation -Compliance Framework 2011-2012**
EXECUTIVE SUMMARY	Monitor has a regulatory framework within which boards of NHS foundation trusts meet their ongoing financial, clinical quality and service provision obligations. The *Compliance Framework* is at the core of Monitor's regulatory framework and is updated annually. Monitor is currently consulting on the proposed changes for 2011-12. The key changes include ▪ A requirement to self certify that the Board has due regard to the Quality Governance Framework ▪ Introduction of patient experience metrics and revised A&E metrics which reflect the Operating Framework 2011-2012. ▪ Removal of some current indicators e.g. thrombolysis ▪ Inclusion of NHSLA level 1 as governance factor and changes to the calibration of the CQC registration factor. A summary of the consultation document is attached. The full document is available from the Head of Corporate Affairs. Comments are being sought from within the Trust but the Trust Board is also asked to contribute views.
BOARD ASSURANCE (RISK)/ IMPLICATIONS	The Board is required to self certify that it has achieved the targets and indicators for the last quarter and that it will continue to meet them for the next quarter. Monitor require Trusts to have robust assurance processes underpinning self certification, and will challenge Trusts where there is found to be a self certification without due diligence or adequate assurance.
STAKEHOLDER/ PATIENT IMPACT AND VIEWS	None taken
EQUALITY AND DIVERSITY ISSUES	None known

LEGAL ISSUES	None known
The Trust Board is asked to:	Comment on the Consultation, in particular the proposal to move to quarterly self certification on the Quality Governance Framework.
Submitted by:	Jane Gear Head of Corporate Affairs
Date:	10 January 2011
Decision:	For noting

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1 INTRODUCTION

Monitor has a regulatory framework within which boards of NHS foundation trusts meet their ongoing financial, clinical quality and service provision obligations.

The *Compliance Framework* is at the core of Monitor's regulatory framework and is updated annually.

Monitor uses the national measures in the *Operating Framework* as the source of the targets and indicators to assess governance risk.

Responses to this consultation are invited by **5pm on Friday 25 February 2011.**

2 EXTRACT FROM CONSULTATION

2.1 Board Statements And Other Governance Submissions

Monitor uses a limited set of board statements which an NHS foundation trust's board of directors is required to self-certify actual and anticipated compliance to Monitor.

The Quality Governance framework was designed following failings at Mid Staffordshire FT as a tool to encourage and support current good practice for quality governance. This was completed by Ashford and St Peter's as part of our assessment process. Monitor now proposes that each NHS foundation trust's annual Statement on Internal Control should include a specific comment on arrangements for quality governance (part of a separate consultation).

Monitor now also propose to require Boards to self certify that they have regard to this Quality Governance Framework. The following draft wording is offered to consultation:

> The Board is satisfied that, to the best of its knowledge and using its own processes *and having had regard to Monitors' Quality Governance Framework* (supported by Care Quality Commission information, *its own information on serious incidents, patterns of complaints,* and including any further metrics it chooses to adopt), its NHS foundation trust has, and will keep in place, effective arrangements for the purpose of monitoring and continually improving the quality of healthcare provided to its patients."

Where boards are unable to self-certify, they should make an alternative declaration by amending the self-certification as necessary, and including any significant prospective risks and concerns the foundation trust has in respect of delivering quality services and effective quality governance. After a lead-in period ending September 2011 Trusts will not be able to make an alternative declaration without Monitor exploring the reasons.

Monitor proposes that this self-certification be included in both annual plan and in- year quarterly submissions.

Comment: Quality is a fundamental priority and the inclusion of this framework is welcomed. However, it looks at structures and processes. To include the revised declaration, which specifically implies a review of the Quality Framework, in the quarterly submissions could imply that the assessment needs to be done quarterly. There is a danger that the declaration will not be properly scrutinised and assured , and therefore the Board should consider whether it feels that the revised declaration is fine but should be annually, and respond to the consultation accordingly.

2.2 Governance indicators

Monitor uses performance against a number of national measures, as well as compliance with the Care Quality Commission's registration requirements, as indicators of governance at NHS foundation trusts. Monitor's governance risk rating is designed to assess the risk of an actual or potential significant breach of the authorisation by a foundation trust.

Monitor proposes that the threshold for a red rating of governance risk will revert to a score of 4.0 or higher (it was reduced mid -year 2010 when there were national changes to the A&E targets).

Service performance score	Governance risk rating
<1.0	Green
>= 1.0, < 2.0	Amber-green
>=2.0, < 4.0	Amber-red
>= 4.0	Red

2.3 Patient experience: Referral to treatment waiting times

Monitor proposes introducing into the *Compliance Framework* the national referral to treatment waiting time measure from the *Operating Framework*. Under this indicator, governance risk will be assessed by ensuring the 95th percentile of elective patients wait no longer than the times below for admitted and non-admitted procedures

	95th percentile waiting time	Score	Monitoring frequency
Admitted patients	23 weeks	1.0	Quarterly (see below)
Non-admitted	18.3 weeks	1.0	Quarterly (see below)

NHS foundation trusts are required to meet this measure on a monthly basis: trusts will self-certify to Monitor each quarter that the target will be met in each month of the subsequent quarter – failure in any subsequent month should thus be reported by

exception to Monitor.

2.4 Clinical quality: A&E quality indicators

The *Operating Framework* has classified A&E quality as a headline measure for National Oversight. The existing 95% waiting time target now forms part of a suite of five A&E quality indicators. As it is national policy to treat these indicators as an aggregate assessment of A&E quality, it is Monitor's view that to select indicators from this suite would place inappropriate emphasis on those indicator(s) at the expense of the others. Consequently, Monitor proposes to incorporate the following five A&E quality indicators in the *Compliance Framework* in 201 1/1 2, with the associated thresholds and scoring:

Measure	Threshold	Score	Monitoring frequency
95th percentile overall time in A&E department	<= 4 hours	0.5	Quarterly
Unplanned re-attendance at A&E within 7 days of original attendance	> 5%	0.5	Quarterly
95th percentile time to initial assessment for patients arriving by ambulance	> 15 minutes	0.5	Quarterly
Time for arrival to treatment – median waiting time	> 60 minutes	0.5	Quarterly
Left without being seen	>5%	0.5	Quarterly

If a trust fails **2 or more** of these measures, then the **total score is capped at 1.0**.

If, having failed two or more A&E quality indicators in any two quarters in a twelve month period, an NHS foundation trust then again fails two or more indicators in any quarter in the nine months subsequent to the second quarter's failure, Monitor will consider whether to formally escalate the trust in order to consider whether it is in significant breach of its authorisation.

For the purposes of applying their escalation procedure from April 2011, Monitor will apply the targets in force in each quarter, i.e.:

- failure to achieve 98% in 4 hours in Q1 2010-11;
- failure to achieve 95% in 4 hours for Q2, Q3 and Q4 2010-11; and/ or
- failure of 2 or more of the above A&E quality indicators from April 2011

2.5 Other changes to governance measures

Stroke indicator

The *Operating Framework* includes among the supporting measures for National Oversight a

stroke measure, although neither a definition nor performance threshold have yet been published. This will be included.

MRSA screening
As the *Operating Framework* no longer includes MRSA screening as a national measure, Monitor proposes to remove the requirement for NHS foundation trusts to screen admissions (elective and emergency) for MRSA from the *Compliance Framework* from April 2011

Thrombolysis
Monitor proposes to remove the thrombolysis indicator from the *Compliance Framework.*

2.6 Care Quality Commission registration

At the moment Monitor includes where the CQC have *concerns* about a Trust in their governance ratings assessment.

Monitor proposes to move to including CQC *formal regulatory* action, as opposed to concerns, regarding the clinical quality and/or patient safety of a foundation trust.

CQC action	**Impact on governance risk rating**
Responsive review	Discretionary override
Improvement notice	+1.0 *(minimum Amber-green)*
Compliance action	+2.0 *(minimum Amber-red)*
Enforcement notice	Red-rated and consideration for escalation for potential significant breach of the terms of authorisation

2.7 Incorporating NHS Litigation Authority clinical negligence scheme for trusts (CNST) levels

Monitor already requires applicant trusts to have a CNST level of at least 1 to be considered for authorisation as a foundation trust, but currently makes no equivalent requirement of foundation trusts once authorised.

It is proposed to require all foundation trusts to have a *published* CNST level of at least 1 – failure to comply with this (or self-certify that this will be the case) will result in the application of a score to the trust's governance risk rating. Monitor is proposing two options for this scoring:

- 2.0, i.e. a minimum amber-red rating; or
- 4.0, i.e. red-rating and potential escalation for consideration of significant breach

2.8 Forward financial risk indicators

Monitor have reviewed the performance of these indicators and propose revising the current indicator which reads
'*Working Capital Facility* ***includes*** *default clause'*

to: *"Working capital facility* ***has been used*** *in the past quarter"*

2.8 **Points of clarification (to be included but not for consultation)**

Breach of full-year targets in-year

Where NHS foundation trusts breach a full-year target in-year, or it becomes mathematically impossible to avoid a full-year breach in-year, Monitor may consider a foundation trust for escalation immediately, rather than waiting for subsequent breaches – e.g. MRSA full year targets breached in Q1, Q2 or Q3

3 SUMMARY

The consultation makes a number of changes to the Compliance Framework

Key issues are:

1. Does the Board agree with the wording of the Quality Declaration and does the Board feel it should be quarterly or annually
2. Does the Board agree with the removal of the targets e.g. Thrombolyisis
3. Does the Board agree that the new *Operating Framework* targets on patients' experience should be included .

Jane Gear
Head of Corporate Affairs
7/1/11