

To: All NHS Foundation Trust Finance Directors

14 March 2014

Dear Colleague,

Publication of revised NHS Foundation Trust Annual Reporting Manual 2013/14

Monitor has today published the revised *NHS Foundation Trust Annual Reporting Manual 2013/14* (FT ARM). We are acutely aware that this is late in the financial year. I wanted to write to you to explain the changes made to the FT ARM, the reasons for them, and to assist your team in understanding the changes as easily as possible.

The FT ARM has been updated to reflect three key documents:

- Monitor's *NHS Foundation Trust Code of Governance*, published in December 2013;
- HM Treasury's *Financial Reporting Manual 2013/14* (the FReM), as last amended on 20 February 2014; and
- HM Treasury's *Public Expenditure System* (PES) paper on year end reporting as last amended on 12 March 2014.

We have a duty to ensure that the FT ARM is based on the principles of the FReM. This is why these late changes have not been subject to consultation. In adopting the changes made to the FReM we have sought to change as little as possible for this year end, while continuing to ensure adherence to the FReM. We will consult on further potential changes when we consult on the 2014/15 FT ARM in the coming months.

We have taken this opportunity to extensively revise how the requirements of the *Code of Governance* are reflected in chapter 7 of the FT ARM. Our aim has been to make the FT ARM as usable as possible. In adopting the updates to the *Code of Governance*, there are very few changes in substance to the reporting requirements for this year end.

We have prepared a practical guide to explain what has changed in this late re-issue of the FT ARM. This is contained in the introduction to the revised FT ARM, and is reproduced in the appendix to this letter.

I recognise that changes to reporting requirements create additional work, especially when they are communicated late in the financial year. We very much hope that the practical guide will assist you

and your teams in understanding these changes, and that the way the changes have been adopted will minimise the impact as much as possible on NHS foundation trusts this year.

Questions on how to interpret the requirements of the FT ARM should be addressed to your auditor in the first instance, as they will have knowledge of how requirements should be applied to your local circumstances. For any general comments, we very much welcome your feedback. Please get in touch with FT.Accounts@monitor.gov.uk if you have any comments.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jason Dorsett', written in a cursive style.

Jason Dorsett
Director of Finance, Reporting and Risk

Appendix: Practical guide to changes made to FT ARM 2013/14

Changes to the annual report

1. Code of Governance

The *NHS Foundation Trust Code of Governance* (the Code) was reissued in December 2013. The Code has been updated to reflect the new UK Code of Corporate Governance and other changes to the foundation trust legislative and governance regime.

The Code is best practice guidance, issued on a “comply or explain” basis. The *NHS Foundation Trust Annual Reporting Manual* (FT ARM) includes certain provisions from the Code; a statement must be made about these provisions in a trust’s annual report to confirm compliance. The FT ARM also sets out the provisions which require disclosure only in the case of non compliance. The inclusion of these provisions within the FT ARM (at paragraph 7.75) creates a requirement on FTs to provide this information within the annual report.

The new Code applies from **1 January 2014**. Where it includes new requirements that have not been complied with for the whole year, it is acceptable to explain that these are new requirements that could not be applied retrospectively.

Chapter 7 of the FT ARM includes a section on the Code; this has been extensively revised to make it easier for you to understand the requirements. We have provided a comprehensive table in paragraph 7.75 which sets out where a Code requirement must be disclosed or reported in the annual report, including where a requirement is new. This will aid NHS foundation trusts preparing their annual report this year by providing a clear reference point to check the completeness of disclosures.

This section of chapter 7 of the FT ARM is now presented differently, but there are few changes in substance. These changes are explained below.

The following rows (from the table in paragraph 7.75) are new mandatory disclosure requirements for 2013/14, which did not feature in the FT ARM in 2012/13:

Part of schedule A of CoG	Relating to	Code of Governance reference	Summary of requirement	Applicable for the whole of 2013/14?
2: Disclose	Board	C.1.1	The directors should explain in the annual report their responsibility for preparing the annual report and accounts, and state that they consider the annual report and accounts, taken as a whole, are fair, balanced and understandable and provide the information necessary for patients, regulators and other stakeholders to assess the NHS foundation trust’s performance, business model and strategy. There should be a statement by the external auditor about their reporting responsibilities. Directors should also explain their approach to quality	Yes. Part of this is new, but changes already adopted into earlier 2013/14 FT ARM

Part of schedule A of CoG	Relating to	Code of Governance reference	Summary of requirement	Applicable for the whole of 2013/14?
			governance in the Annual Governance Statement (within the annual report).	
2: Disclose	Audit Committee	C.3.9	<p>A separate section of the annual report should describe the work of the audit committee in discharging its responsibilities. The report should include:</p> <ul style="list-style-type: none"> • the significant issues that the committee considered in relation to financial statements, operations and compliance, and how these issues were addressed; • an explanation of how it has assessed the effectiveness of the external audit process and the approach taken to the appointment or re-appointment of the external auditor, the value of external audit services and information on the length of tenure of the current audit firm and when a tender was last conducted; and • if the external auditor provides non-audit services, the value of the non-audit services provided and an explanation of how auditor objectivity and independence are safeguarded. 	Yes. Part of this is new, but changes already adopted into earlier 2013/14 FT ARM
6: Comply or explain	Board / Council of Governors	B.2.2	Directors on the board of directors and governors on the council of governors should meet the “fit and proper” persons test described in the provider licence.	Yes. New to the Code, but part of the FT licence
Additional requirement of FT ARM	Council of Governors	n/a	<p>If, during the financial year, the Governors have exercised their power* under paragraph 10C** of schedule 7 of the NHS Act 2006, then information on this must be included in the annual report.</p> <p>This is required by paragraph 26(2)(aa) of schedule 7 to the NHS Act 2006, as amended by section 151 (8) of the Health and Social Care Act 2012.</p> <p>* Power to require one or more of the directors to attend a governors’ meeting for the purpose of obtaining information about the foundation trust’s performance of its functions or the directors’ performance of their duties (and deciding whether to propose a vote on the foundation trust’s or directors’ performance).</p> <p>** As inserted by section 151 (6) of the Health and Social Care Act 2012)</p>	Yes – this is new, but is coming from the 2012 Act

The following rows (from the table in paragraph 7.75) are requirements that are new in the FT CoG from 1 January 2014 and non-compliance for the year can be explained on the basis that they did not apply for the whole year:

Part of schedule A of CoG	Relating to	Code of Governance reference	Summary of requirement	Applicable for the whole of 2013/14?
2: Disclose	Board	B.6.2	Where there has been external evaluation of the board, the external facilitator should be identified in the annual report and a statement made as to whether they have any other connection to the trust.	No. (Newly added to Code)
2: Disclose	Audit Committee / control environment	C.2.2	A trust should disclose in the annual report: (a) if it has an internal audit function, how the function is structured and what role it performs; or (b) if it does not have an internal audit function, that fact and the processes it employs for evaluating and continually improving the effectiveness of its risk management and internal control processes.	No. (Newly added to Code)
6: Comply or explain	Board / Audit Committee	C.3.1	The board should establish an audit committee composed of at least three members who are all independent non-executive directors.	No. (Extended in new Code)

The tables above do not identify all changes in the revised *NHS Foundation Trust Code of Governance* that was issued in December 2013. The intention here is to identify the changes in reporting requirements in the 2013/14 FT ARM compared to the 2012/13 FT ARM.

2. Remuneration Report

Changes to the remuneration report in 2013/14 have been limited to those are mandated by the 2013/14 HM Treasury FReM as last amended on 20 February 2014.

The new structure of the remuneration report as set out in amendments to the Companies Act Regulations¹ has not been adopted into the 2013/14 FT ARM. The structure in the Companies Act Regulations is for the remuneration report to have three sections:

- 1) annual statement on remuneration (detailed in part 2 of the new Schedule 8 to the Regulations);
- 2) annual report on remuneration - of which some elements are subject to audit (detailed in part 3 of Schedule 8); and
- 3) directors' remuneration policy (detailed in part 4 of Schedule 8).

Sections 1 and 3 (the annual statement and the directors' remuneration policy) build on the current 'not subject to audit' elements in the FT ARM. Monitor has decided for 2013/14 to leave these 'not

¹ Schedule 8 of the Large and Medium-sized Companies and Groups (Accounts and Reports) Regulations 2008 (SI 2008/410), as substituted by The Large and Medium-sized Companies and Groups (Accounts and Reports) (Amendment) Regulations 2013 (SI 2013/1981)

subject to audit' elements unchanged so far as possible. As such Monitor has not adopted the change of format to the remuneration report to have three sections. Monitor will consult on potential wider changes to the remuneration report as part of the 2014/15 FT ARM consultation.

Changes to Section 2 (the 'annual report on remuneration') have been adopted into the existing structure of the remuneration report in the FT ARM. In summary the changes are:

Information not subject to audit

- One of the bullet points in paragraph 7.37 has been expanded to require additional disclosures on the implementation of remuneration policy in the following financial year. This requirement comes from paragraph 21 in part 3 of the Regulations.
- One of the bullet points in paragraph 7.37 has been expanded to require additional disclosures where the remuneration committee has received advice or services that assisted their considerations. This requirement comes from paragraph 22 in part 3 of the Regulations.

Information subject to audit

This section has been extensively revised. Paragraphs 7.40 to 7.71 should be considered to be new and read in full, but the definition of 'senior manager' has not changed. This means that there are no changes to the term which defines which individuals are included within the remuneration table(s), although the format of the disclosure has changed.

3. Strategic Report and Directors' Report

The changes to the Companies Act that relate to the strategic report and directors' report have been adopted by the FReM and the FT ARM. The previous directors' report (including an operating and financial review) required by the FT ARM 2012/13 has been split into a strategic report and a directors' report.

Strategic report

The purpose of the strategic report is to inform users of the accounts and help them to assess how the directors have performed in promoting the success of the foundation trust, with a forward looking view.

Paragraphs 7.7 to 7.16 of the FT ARM should be read in full. There are subtle differences to the equivalent previous requirements in the directors' report. Important new points include:

- including information about human rights issues (alongside social and community issues);
- providing information on the financing implications of any significant changes in the foundation trust's objectives and activities, its investment strategy or its long-term liabilities (including significant provisions and PFI and other leasing contracts);
- a description of the foundation trust's strategy and business plan; and
- a breakdown at the year end of the number of male and female directors, other senior managers and employees.

NHS foundation trusts should note that the going concern disclosure required by the Code should now be part of the strategic report. There are no changes to paragraphs 7.17 to 7.20, which set out these requirements.

The option of locally publishing summary financial statements with the annual report has been replaced by an option to publish the strategic report with supplementary information. It continues to be the case that the full annual report and accounts should be laid before Parliament and submitted to Monitor for inclusion on Monitor's website. The update regarding summary financial statements is reflected in paragraphs 1.26 to 1.29 of the FT ARM.

Directors' report

Given the new requirements for the strategic report, the directors' report is now much shorter.

Excluding disclosures that have moved to be part of the strategic report, important changes include:

- Annex 1 to Chapter 7 - removal of the Companies Act disclosures in respect of policy and payment of creditors (but note that the better payment practice code continues to be part of paragraph 7.86);
- Annex 1 to Chapter 7 - removal of the Companies Act disclosures where market values are known to differ significantly from the values at which those assets are held in the accounts; and
- Annex 1 to Chapter 7 - removal of the Companies Act disclosure on charitable donations.

4. Off-payroll arrangements

In March 2013 Monitor wrote to foundation trusts setting out the requirements for this new disclosure for 2012/13. For 2013/14 the disclosure has been updated, given 2012/13 was the first year of the disclosure. There are no significant changes in the extent of the disclosure. The new requirements are set out in paragraph 7.39 and Annex 8 to Chapter 7.

5. Other amendments

Three further minor amendments have been made to the FT ARM:

- Annual Report - paragraph 7.88 – it is made clearer that the disclosure that the NHS foundation trust has complied with the cost allocation and charging guidance issued by HM Treasury only applies to public sector information holders. This relates to when an information holder levies a charge for providing information.
- Annual Report – paragraph 7.90 – the link to the *NHS Foundation Trust Accounting Officer Memorandum* has been updated as this was re-published by Monitor in March 2014.
- Annual Report – paragraph 7.82 on Quality Reports and Annex 2 to Chapter 7 – updated with a link to the 'Detailed Requirements' document that has now been issued by Monitor.

Changes to the annual accounts

6. Exit packages

The disclosure of exit packages (paragraphs 4.53 to 4.57 of the FT ARM) has not changed for 2013/14, except in one respect: it should now include **all** exit packages, including those paid to senior managers that are already presented in the remuneration report.

There is a new additional disclosure (paragraphs 4.58 to 4.61) which provides further information to break down the 'other departures' (non-compulsory) information presented in the original note.