

Self-Certification for NHS Trusts – May 2018

Introduction

Last year was the first year NHS trusts must self-certify. Although NHS trusts are exempt from needing the provider licence, directions from the Secretary of State require the NHS Trust Development Authority to ensure that NHS trusts comply with conditions equivalent to the licence as it deems appropriate.

The Single Oversight Framework (SOF) bases its oversight on the NHS provider licence. NHS trusts are therefore legally subject to the equivalent of certain provider licence conditions (including Condition G6 and Condition FT4) and must self-certify under these licence provisions. NHS trusts are required to self-certify that they can meet the obligations set out in the

NHS provider licence (which itself includes requirements to comply with the National Health Service Act 2006, the Health and Social Care Act 2008, the Health Act 2009 and the Health and Social Care Act 2012, and to have regard to the NHS Constitution) and that they have complied with governance requirements. The self-certification requirement set out in CoS7(3) does not apply to NHS trusts.

Recommendation

The Board is asked to certify the following conditions under the NHS provider Licence and authorise the Chair to sign the self-certification on behalf of the Board:

	Confirmed	Not Confirmed
NHS provider licence condition:		
Condition G6(3) – The provider has taken all precautions necessary to comply with the licence, NHS acts and NHS Constitution (Condition G6(3)).	✓	
Condition FT4(8) – The provider has complied with required governance arrangements.	✓	

Signed on Behalf of the Board:

Nicola Scrivings (Chair)

Signature:.....

Date:.....

APPENDIX 1 – Relevant provisions of the NHS provider license

Condition G6 – Systems for compliance with licence conditions and related obligations

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.
3. Not later than two months from the end of each Financial Year, the Licensee shall prepare and submit to Monitor a certificate to the effect that, following a review for the purpose of paragraph 2(b) the Directors of the Licensee are or are not satisfied, as the case may be that, in the Financial Year most recently ended, the Licensee took all such precautions as were necessary in order to comply with this Condition.
4. The Licensee shall publish each certificate submitted for the purpose of this Condition within one month of its submission to Monitor in such manner as is likely to bring it to the attention of such persons who reasonably can be expected to have an interest in it.

Condition FT4 – NHS foundation trust governance arrangements

1. This condition shall apply if the Licensee is an NHS foundation trust, without prejudice to the generality of the other conditions in this Licence.
2. The Licensee shall apply 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.
3. Without prejudice to the generality of paragraph 2 and to the generality of General Condition 5, the Licensee shall:
 - a) have regard to such guidance on good corporate governance as may be issued by Monitor from time to time; and
 - b) comply with the following paragraphs of this Condition.
4. The Licensee shall establish and implement:
 - 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 clear reporting lines and accountabilities throughout its organisation.

5. The Licensee shall establish and effectively implement systems and/or processes:
 - a) to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;
 - b) for timely and effective scrutiny and oversight by the Board of the Licensee's operations;
 - c) to ensure compliance with health care standards binding on the Licensee 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;