

NHS Provider Licence: Self Certification

Background

The Health and Social Care Act 2012 introduced the concept of a Licence for providers of NHS services, and the NHS Provider Licence was subsequently introduced in February 2013.

Foundation Trusts were licensed from April 2013, with other providers being licensed from April 2014, but it was later confirmed that the Licence would not apply to NHS Trusts. In April 2017, NHS Improvement (NHSI) confirmed that NHS Trusts must undertake a self-certification against the NHS Provider Licence, on the basis that, despite their exemption, directions from the Secretary of State required NHSI to ensure that NHS Trusts complied with conditions equivalent to the Licence, as it deemed appropriate.

As NHSI's Single Oversight Framework (SOF) bases its oversight on the Licence, NHS Trusts are therefore legally subject to the equivalent of certain Provider Licence conditions, and must self-certify under these licence provisions.

These conditions are:

Condition G6

Condition G6 (2) requires trusts to have processes and systems that:

- identify risks to compliance
- take reasonable mitigating actions to prevent those risks and a failure to comply from occurring.

Providers must annually review whether these processes and systems are effective.

Condition CoS 7- Availability of resources (scope = next financial year 2021/22)

The Licensee shall at all times act in a manner calculated to secure that it has, or has access to, the Required Resources. The Licensee shall not enter into any agreement or undertake any activity which creates a material risk that the Required Resources will not be available to the Licensee. The Licensee, not later than two months from the end of each Financial Year, shall publish a certificate as to the availability of the Required Resources for the period of 12 months commencing on the date of the certificate.

Condition FT4

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. 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.

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

Authorisation

The Torbay and South Devon Foundation Trust Board approved the 2020/21 self-certification for Condition G6, Condition FT4 and CoS 7 at its meeting on 26 May 2021, with the self- certification status categorised as: **confirmed**.

- Evidence to substantiate the self-certifications for G6 and CoS 7 requirement and the self-certification statements can be accessed on the Trust's website under Publications.