NHS Self-Certification 2016/17

General Condition 6 (GC6) and Foundation Trust 4 (FT4)

Introduction

This is 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.

What is required?

Providers need to self-certify the following after the financial year-end:

NHS provider licence condition

- The provider has taken all precautions necessary to comply with the licence, NHS Acts and NHS Constitution (Condition G6(3))

- The provider has complied with required governance arrangements (Condition FT4(8))

The aim of self-certification is for providers to carry out assurance that they are in compliance with the conditions. It is up to providers how they do this. Any process should ensure that the provider's Board understands clearly whether or not the provider can confirm compliance.

There is no set approach to these standards and objectives but the expectation is that any compliant approach will involve effective board and committee structures, reporting lines and performance and risk management systems. The governance standards are as laid out in

a. Well-led Framework for governance reviews (April 2015)
b. Single Oversight Framework (September 2016).

Sign off and Deadlines:
The Board must sign off on self-certification. Boards must sign off on self-certification no later than:
a. GC6: 31 May 2017
b. FT4: 30 June 2017

Condition G6

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

      a. identify risks to compliance
      b. takes 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.

Providers must publish their G6 self-certification within one month following the deadline for sign-off (as set out in Condition G6 (4)).

Self-Assessment against criteria:

The Trust's Annual Governance Statement sets out the Trust governance structures, systems and processes and identifies risks to compliance with the NHS Contracts and to NHS Constitution rights.

The Trusts Annual report and Accounts have been considered by the Audit Committee and will be reviewed and approved by Trust Board in May 2017. These will be published after purdah.

A review of the Trust's governance structures has been undertaken through the Internal Audit programme and External Auditors review as part of the Auditing of the Trust's Accounts.

To support continual compliance with this condition the Board Committees, including Audit Committee, FPC and RAQC have reviewed and monitored areas within their terms of reference and reported to Board after each meeting. The Board Committee are also reviewed annual to ensure they remain effective.

This self-assessment is being completed within the required timescale.

Outcome:
The Trust Board considered and confirmed compliance with the Condition 6 requirements at its meeting on 31 May 2017.

Condition FT4
NHS Trusts must self-certify under Condition FT4 (8).

Providers should review whether their governance systems achieve the objectives set out in the licence condition. The standards set out in FT4 are similar to the standards of governance set out in the NHSI general objective.

In May 2017, the Board delegated the Risk and Quality Committee to review compliance with the requirements of this condition. The RAQC considered the self-assessment and supportive evidence at its meeting in June 2017.

Outcome:
The Trust Board considered and confirmed compliance with the FT4 condition requirements at its meeting 20 June 2017 and reported this to Board on 28 June 2017.

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.

June 2017