

# Self-certification: guidance for NHS foundation trusts and NHS trusts

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We support providers to give patients safe, high quality, compassionate care within local health systems that are financially sustainable.

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# 1. Introduction

1. This document provides guidance on the annual self-certification that NHS trusts and foundation trusts ('NHS providers') must complete under the NHS provider licence.
2. The annual self-certification provides assurance that NHS providers are compliant with the conditions of their NHS provider licence. Compliance with the licence is routinely monitored through the Single Oversight Framework but, on an annual basis, the licence requires NHS providers to self-certify as to whether they have:
  - a. effective systems to ensure compliance with the conditions of the NHS provider licence, NHS legislation and the duty to have regard to the NHS Constitution (condition G6);
  - b. complied with governance arrangements (condition FT4); and
  - c. for NHS foundation trusts only, the required resources available if providing commissioner requested services (CRS) (condition CoS7).
3. Although NHS trusts do not need to hold a provider licence, directions from the Secretary of State require NHS Improvement to ensure that NHS trusts comply with conditions equivalent to those in the licence as it deems appropriate.
4. NHS trusts are therefore legally subject to the equivalent of certain provider licence conditions (including conditions G6 and FT4) and must self-certify under these licence conditions. The CoS conditions do not apply to NHS trusts, so they are not required to self-certify under the CoS7 condition.
5. A template is provided to assist with recording of the self-certifications. Should you be audited by NHS Improvement this can be a useful tool to quickly illustrate compliance with some of the process. It is not mandatory to complete and is provided for record keeping purposes only. Please do not return to NHS Improvement unless specifically requested to do so.

## 2. What is required?

6. NHS providers need to self-certify the following conditions after the financial year end:

### NHS provider licence conditions

Condition G6(3)	The provider has taken all precautions to comply with the licence, NHS acts and NHS Constitution.	By 31 May
Condition G6(4)	Publication of condition G6(3) self-certification.	By 30 June
Condition FT4(8)	The provider has complied with required governance arrangements.	By 30 June
Condition CoS7(3)	The provider has a reasonable expectation that required resources will be available to deliver the designated services for the 12 months from the date of the statement. This only applies to foundation trusts that are providers of CRS.	By 31 May

7. It is up to the provider how they undertake their self-certification process. However, any process should ensure that the provider's board understands clearly whether or not the provider can confirm compliance.
8. Detailed guidance on the requirements of each of these conditions can be found in Section 4 of this document. In Section 6, you will find links to resources including self-certification and templates that boards may use to record their self-certification if they find them helpful.

# 3. NHS provider licence conditions

## Condition G6

9. Condition G6(2) requires NHS providers to have processes and systems that:
  - a. identify risks to compliance with the licence, NHS acts and the NHS Constitution
  - b. guard against those risks occurring.
10. Providers must complete a self-certification after reviewing whether their processes and systems were implemented in the previous financial year and were effective (condition G6(3)).
11. Providers must publish their self-certification by 30 June (condition G6(4)).

### Guidance on using the template

- Providers should choose 'confirmed' or 'not confirmed' as appropriate.
- Providers choosing 'not confirmed' should explain why in the free text box provided.

## Condition FT4

12. Condition FT4 is about systems and processes for good governance. NHS providers must make a corporate governance statement under condition FT4(8) as to current and future compliance with condition FT4.
13. Before making the statement, providers should review whether their governance systems and processes enable them to achieve compliance with condition FT4. There is no set approach, but we expect any compliant approach to involve a review of the effectiveness of board and committee structures, reporting lines and performance and risk management systems.

14. NHS providers can find further information on governance by referring to:
  - a. the [well-led framework for governance reviews](#) (last updated June 2017)
  - b. the [NHS foundation trust code of governance](#) (July 2014)
  - c. [Single Oversight Framework](#) (last updated November 2017)
  - d. contacting their NHS Improvement regional regulation lead.

## Guidance on using the template

- Providers should select 'confirmed' or 'not confirmed' for each certification as appropriate and set out relevant risks and mitigating actions in each case.
- Providers choosing 'not confirmed' for any certification should explain why in the free text box provided.

## Condition CoS7 (only NHS foundation trusts that have CRS designated services)

15. Only NHS foundation trusts designated as providing CRS must self-certify under condition CoS7(3).

### What is commissioner requested service designation?

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16. A CRS designation is not simply a standard contract with a commissioner to provide services. CRS are services commissioners consider should continue to be provided locally even if the provider is at risk of failing financially and, as such, are subject to closer regulation by NHS Improvement. Providers can be designated as providing CRS because:
  - there is no alternative provider close enough
  - removing the services would increase health inequalities
  - removing the services would make other related services unviable.
17. For more detailed guidance, refer to [the designation framework: defining CRS and location specific services](#) (28 March 2013).

## How do I know if my foundation trust is a CRS provider

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18. NHS foundation trusts authorised before 1 April 2016 will have been specifically notified by their commissioner if they have been designated a CRS provider. They do not need to complete the CoS7 certification if they have not been notified.
19. Foundation trusts authorised on or after 1 April 2016 are automatically CRS designated for all services for 12 months from the date of authorisation. During this period, they must complete the CoS7 certification. After 12 months, unless they receive a specific designation from a commissioner, they are not designated a CRS provider and the CoS7 certification is not required.

### Guidance on using the template

- The template requires CRS-designated NHS foundation trusts to select 'confirmed' for one of three statements about the availability of resources required to provide commissioner designated services:
  - a. the required resources will be available for 12 months from the date of the statement;
  - b. the required resources will be available over the next 12 months, but specific factors may cast may doubt on this; or
  - c. the required resources will not be available over the next 12 months.
- Required resources include: management resources, financial resources and facilities, personnel, physical and relevant asset guidance.
- Only one statement should be confirmed (and providers do not need to state the other two are not confirmed). Providers should explain the reasons for the chosen statement in the free text box provided (condition CoS7(4)).

## 4. Other self-certifications

### Training of governors (NHS foundation trusts only)

20. NHS foundation trusts must review whether their governors have received enough training and guidance to carry out their roles. It is up to providers how they do this (but see [Monitor's guide for governors](#) for guidance).

#### Guidance on using the template

- Providers should choose 'confirmed' or 'not confirmed' as appropriate for the certification.
- Providers choosing 'not confirmed' should explain why in the free text box provided.

## 5. Useful resources

21. This guidance is necessarily high level and should be read alongside:
  - a. the templates
  - b. [NHS provider licence](#) (last updated February 2013)
  - c. [the designation framework: defining CRS and location specific services](#) (last updated March 2013)
  - d. [the well-led framework for governance reviews](#) (last updated June 2017)
  - e. [the NHS foundation trust code of governance](#) (July 2014)
  - f. [Single Oversight Framework](#) (last updated November 2017).
22. If you have any questions not addressed in this guidance or any of the additional documents referred to, please contact your regional lead.

## 6. Deadlines

Boards must sign off on self-certification not later than:

- Condition G6: 31 May – must be published no later than by 30 June.
- Condition CoS7: 31 May
- Condition FT4: 30 June.

## 7. Audit

23. Please do not return the completed self-certifications or templates to NHS Improvement unless requested to do so.
24. NHS Improvement will retain the option each year of contacting a select number of NHS trusts and foundation trusts to ask for evidence that they have self-certified, either by providing the completed or relevant board minutes and papers recording sign-off.

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