



Self Certification of the NHS Provider Licence

Public Board

20 May 2021

Presented for:	Governance
Presented by:	Julian Hartley Chief Executive
Authors:	Rob Newton, Associate Director of Policy and Partnerships
Corporate objective:	To meet obligations of the NHS provider licence

Trust Goals	
The best for patient safety, quality and experience	√
The best place to work	
A centre for excellence for research, education and innovation	
Seamless integrated care across organisational boundaries	
Financial sustainability	√

Key Points	
The Board is asked to approve the annual self-certification against the NHS provider licence.	For decision

1. PURPOSE OF THE PAPER

The purpose of this paper is to ask the Board to approve the draft annual self-certification against the NHS provider license.

2. BACKGROUND

NHS Improvement requires Trusts to self-assess against the NHS provider licence on an annual basis. Two declarations are required:

1. Condition G6(3) Providers must certify that their Board has taken all precautions necessary to comply with the licence, NHS acts and NHS Constitution
2. Condition FT4(8) Providers must certify compliance with required governance standards and objectives

NHS provider Board's must sign off the self-assessment by 31 May 2021 for condition G6 and 30 June for condition FT4. Evidence of self-certification must be published within a month following Board sign-off and NHS Improvement provide templates to support this.

NHS Improvement do not require any submission however will carry out spot checks to ensure that Boards have self-assessed and published details of their self-assessment (i.e. the templates).

3. CONTENT OF THE SUBMISSIONS

The provider license conditions are set out at attachment one along with a suggested response. The self-certification templates relating to condition GS6 and condition FT4 are set out in attachments two and three respectively.

4. PUBLICATION UNDER FREEDOM OF INFORMATION ACT

This paper has been made available under the Freedom of Information Act 2000.

5. SUMMARY

The Board is asked to approve the draft self-certification return as set out in the attachments for the period of 2021/22

Julian Hartley
Chief Executive

Attachment One: Compliance with the Provider Licence requirements

Provider Licence Condition	Definition from The New NHS Provider Licence 14 February 2013 Monitor for information only	Suggested response Y/N/Risk	Comment if Risk or Non-compliant	Timescale for compliance
General Condition 1: Provision of information	This condition contains an obligation for all licensees to provide Monitor with any information we require for our licensing functions.	Yes	n/app	n/app
General Condition 2: Publication of information	This licence condition obliges licensees to publish such information as Monitor may require	Yes	n/app	n/app
General Condition 3: Payment of fees to Monitor	The Act gives Monitor the ability to charge fees and this condition obliges licence holders to pay fees to Monitor if requested.	Yes	n/app	n/app
General Condition 4: Fit and proper persons	This licence condition prevents licensees from allowing unfit persons to become or continue as governors or directors (or those performing similar or equivalent functions). In exceptional circumstances and at Monitor's discretion we may issue a licence without the licensee having met this requirement.	Yes	n/app	n/app
General Condition 5: Monitor guidance	This licence condition requires licensees to have regard to any guidance that Monitor issues.	Yes	n/app	n/app
General Condition 6: Systems for compliance with licence conditions and related obligations	This licence condition requires providers to take all reasonable precautions against the risk of failure to comply with the licence and other important requirements.	Yes	n/app	n/app
General Condition 7: Registration with the Care Quality Commission	This licence condition requires providers to be registered with the CQC (if required to do so by law) and to notify us if their registration is cancelled.	Yes	n/app	n/app
General Condition 8: Patient eligibility and selection criteria	This condition requires licence holders to set transparent eligibility and selection criteria for patients and to apply these in a transparent manner.	Yes	n/app	n/app
General Condition 9: Application of Section 5 (Continuity of Services)	This condition applies to all licence holders. It sets out the conditions under which a service will be designated as a Commissioner Requested Service. If a licensee provides any Commissioner Requested Services, all the Continuity of Services Conditions apply to the licence holder.	Yes	n/app	n/app
Pricing Condition 1: Recording of information	Under this licence condition, Monitor may oblige licensees to record information, particularly information about their costs, in line with guidance to be published by Monitor.	Yes	n/app	n/app
Pricing Condition 2: Provision of information	Having recorded the information in line with Pricing condition 1 above, licensees can then be required to submit this information to Monitor.	Yes	n/app	n/app

Pricing Condition 3: Assurance report on submissions to Monitor	When collecting information for price setting, it will be important that the information submitted is accurate. This condition allows Monitor to oblige licensees to submit an assurance report confirming that the information they have provided is accurate.	Yes	n/app	n/app
Pricing Condition 4: Compliance with the National Tariff	The Health and Social Care Act 2012 requires commissioners to pay providers a price which complies with, or is determined in accordance with, the National Tariff for NHS health care services. This licence condition imposes a similar obligation on licensees, i.e. the obligation to charge for NHS health care services in line with the National Tariff.	Yes	The aligned incentive contract is not activity based however can be reconciled back to tariff	n/app
Pricing Condition 5: Constructive engagement concerning local tariff modifications	The Act allows for local modifications to prices. This licence condition requires licence holders to engage constructively with commissioners, and to try to reach agreement locally, before applying to Monitor for a modification.	Yes	n/app	n/app
Choice and Competition Condition 1: Patient choice	This condition protects patients' rights to choose between providers by obliging providers to make information available and act in a fair way where patients have a choice of provider. This condition applies wherever patients have a choice of provider under the NHS Constitution, or where a choice has been conferred locally by commissioners.	Yes	n/app	n/app
Choice and Competition Condition 2: Competition oversight	This condition prevents providers from entering into or maintaining agreements that have the object or effect of preventing, restricting or distorting competition to the extent that it is against the interests of health care users. It also prohibits licensees from engaging in other conduct which has the effect of preventing, restricting or distorting competition to the extent that it is against the interests of health care users.	Yes	n/app	n/app
The Integrated Care Condition applies to all licence holders	The Integrated Care Condition is a broadly defined prohibition: the licensee shall not do anything that could reasonably be regarded as detrimental to enabling integrated care. It also includes a patient interest test. The patient interest test means that the obligations only apply to the extent that they are in the interests of people who use health care services.	Yes	n/app	n/app
Continuity of Services Condition 1: Continuing provision of Commissioner Requested Services	This condition prevents licensees from ceasing to provide Commissioner Requested Services, or from changing the way in which they provide Commissioner Requested Services, without the agreement of relevant commissioners.	Yes	n/app	n/app

Agenda Item 14.3

Continuity of Services Condition 2: Restriction on the disposal of assets	This licence condition ensures that licensees keep an up-to-date register of relevant assets used in the provision of Commissioner Requested Services. It also creates a requirement for licensees to obtain Monitor's consent before disposing of these assets when Monitor is concerned about the ability of the licensee to carry on as a going concern.	Yes	n/app	n/app
Continuity of Services Condition 3: Monitor risk rating	This condition requires licensees to have due regard to adequate standards of corporate governance and financial management.	Yes	n/app	n/app
Continuity of Services Condition 4: Undertaking from the ultimate controller	This condition requires licensees to put in place a legally enforceable agreement with their 'ultimate controller' to stop ultimate controllers from taking any action that would cause licensees to breach the licence conditions. This condition specifies who is considered to be an ultimate controller.	Yes	n/app	n/app
Continuity of Services Condition 5: Risk pool levy	This licence condition obliges licensees to contribute, if required, towards the funding of the "risk pool" - this is like an insurance mechanism to pay for vital services if a provider fails.	Yes	n/app	n/app
Continuity of Services Condition 6: Cooperation in the event of financial stress	This licence condition applies when a licensee fails a test of sound finances, and obliges the licensee to cooperate with Monitor in these circumstances.	Yes	n/app	n/app
Continuity of Services Condition 7: Availability of resources	This condition requires licensees to act in a way that secures access to the resources needed to operate Commissioner Requested Services.	Yes	n/app	n/app