

**EXECUTIVE SUMMARY**  
**REPORT TO THE BOARD OF DIRECTORS**  
**HELD ON 21 MAY 2019**

<b>Subject</b>	Self-certification against the conditions of the Provider Licence 2018-19
<b>Supporting TEG Member</b>	Sandi Carman, Assistant Chief Executive
<b>Author</b>	Judith Green, Corporate Governance Manager
<b>Status<sup>1</sup></b>	Approval and Requiring Board Approval

**PURPOSE OF THE REPORT**

To provide assurance of compliance with the conditions of the NHS Provider Licence in accordance with the NHS Improvement self-certification guidance.

**KEY POINTS**

NHS Foundation Trusts are required to self-certify whether or not they have complied with the conditions of 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, the Health and Social Care Act 2012, and have regard to the NHS Constitution), have the required resources available if providing commissioner requested services, and have complied with governance requirements.

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

Provider licence condition reference	Provider licence condition	Deadline for Board sign off
Condition G6 (3)	The provider has taken all precautions necessary to comply with the licence, NHS acts and NHS Constitution	31 May 2019
Condition FT 4 (8)	The provider has complied with required governance arrangements	30 June 2019
Condition CoS 7 (3)	If providing commissioner requested services, the provider has a reasonable expectation that required resources will be available to deliver the designated services	31 May 2019

Providers must also review whether their governors have received enough training and guidance to carry out their roles and should confirm / not confirm as appropriate.

The aim of the self-certification is for providers to carry out assurance that they are in compliance with the conditions. There is no set process for assurance or how conditions are met; this is reflective of the autonomy of Foundation Trust status. No documentation returns or information submissions are required to NHS Improvement this year, although a selection of organisation will be audited from July 2019 to confirm internal processes undertaken.

The Board of Directors must sign off on self-certification, taking into account the views of governors. In consultation with the Membership Manager the lead governor is reviewing the submission to support the submission as attached on behalf of the governors.

The draft self-certification for the Trust for 2018/19 is attached at Appendix A to this paper.

## IMPLICATIONS<sup>2</sup>

AIM OF THE STHFT CORPORATE STRATEGY 2017-2020		TICK AS APPROPRIATE
1	Deliver the Best Clinical Outcomes	√
2	Provide Patient Centred Services	√
3	Employ Caring and Cared for Staff	√
4	Spend Public Money Wisely	√
5	Deliver Excellent Research, Education & Innovation	√

## RECOMMENDATIONS

The Board of Directors is recommended to:

- **REVIEW** and **APPROVE** the content of the draft self-certification statements (attached at Appendix A);
- **NOTE** that the final approved version of the self-certification must be published within a month following the Board of Directors sign-off.

## APPROVAL PROCESS

Meeting	Date	Approved Y/N
TEG	15 May 2019	
Governors (take into account views of governors)	virtual	
Audit Committee	20 May 2019	
Board of Directors	21 May 2019	

<sup>1</sup>Status: A = Approval  
A\* = Approval & Requiring Board Approval  
D = Debate  
N = Note

<sup>2</sup>Against the five aims of the STHFT Corporate Strategy 2017-20

## Sheffield Teaching Hospitals NHS Foundation Trust Self-certification against Provider Licence Conditions 2019

### Condition G6(3): Systems for compliance with licence conditions and related obligations

<b>Details of Condition</b>	<p><i>1. The Licensee shall take all reasonable precautions against the risk of failure to comply with:</i></p> <p><i>(a) the Conditions of this Licence,</i></p> <p><i>(b) any requirements imposed on it under the NHS Acts, and</i></p> <p><i>(c) the requirement to have regard to the NHS Constitution in providing health care services for the purposes of the NHS.</i></p> <p><i>2. Without prejudice to the generality of paragraph 1, the steps that the Licensee must take pursuant to that paragraph shall include:</i></p> <p><i>(a) the establishment and implementation of processes and systems to identify risks and guard against their occurrence; and</i></p> <p><i>(b) regular review of whether those processes and systems have been implemented and of their effectiveness.</i></p> <p><i>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.</i></p>
<b>This means</b>	<p>This means a provider is required to have in place effective systems and processes to ensure compliance, identify risks to compliance and take reasonable mitigating actions to prevent those risks and a failure to comply from occurring.</p>

<b>Assurance</b>	<ul style="list-style-type: none"> <li>• Robust governance infrastructure and arrangements</li> <li>• Board and Board Committees (Audit, Nomination and Remuneration, Finance and Performance, Human Resources and Organisational Development and Healthcare Governance)</li> <li>• Trust Executive Group (TEG), Management Board Briefing / Clinical Management Board</li> <li>• Trust's risk processes and procedures</li> <li>• Occupational Safety and Risk Committee</li> <li>• Patient Safety and Risk Committee</li> </ul>
<b>Evidence</b>	<ul style="list-style-type: none"> <li>• Annual Reports and Accounts 2018-19</li> <li>• Annual Governance Statement 2018-19</li> <li>• Integrated Risk and Assurance Reports for 2018-19</li> <li>• Head of Internal Audit Opinion Statement 2019</li> <li>• Trust's Risk Register</li> </ul>
<b>Self-certification</b>	Compliance status: Confirmed

## Condition FT4(8): NHS foundation trust governance arrangements

<b>Details of Condition</b>	<p>1. <i>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.</i></p> <p>2. <i>Without prejudice to the generality of paragraph 1 and to the generality of General Condition 5, the Licensee shall:</i></p> <p><i>(a) have regard to such guidance on good corporate governance as may be issued by Monitor from time to time; and</i></p> <p><i>(b) comply with the following paragraphs of this Condition.</i></p> <p>3. <i>The Licensee shall establish and implement:</i></p> <p><i>(a) effective board and committee structures;</i></p> <p><i>(b) clear responsibilities for its Board, for committees reporting to the Board and for staff reporting to the Board and those committees; and</i></p> <p><i>(c) clear reporting lines and accountabilities throughout its organisation.</i></p> <p>4. <i>The Licensee shall establish and effectively implement systems and/or processes:</i></p> <p><i>(a) to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;</i></p> <p><i>(b) for timely and effective scrutiny and oversight by the Board of the Licensee's operations;</i></p> <p><i>(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;</i></p> <p><i>(d) for effective financial decision-making, management and control (including but not restricted to appropriate systems and/or processes to ensure the Licensee's ability to continue as a going concern);</i></p> <p><i>(e) to obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;</i></p> <p><i>(f) to identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence;</i></p> <p><i>(g) to generate and monitor delivery of business plans (including any changes to such plans) and to receive internal and where appropriate external assurance on such plans and their delivery; and</i></p> <p><i>(h) to ensure compliance with all applicable legal requirements.</i></p> <p>5. <i>The systems and/or processes referred to in paragraph 5 should include but not be restricted to systems</i></p>
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	<p><i>and/or processes to ensure:</i></p> <p><i>(a) that there is sufficient capability at Board level to provide effective organisational leadership on the quality of care provided;</i></p> <p><i>(b) that the Board’s planning and decision-making processes take timely and appropriate account of quality of care considerations;</i></p> <p><i>(c) the collection of accurate, comprehensive, timely and up to date information on quality of care;</i></p> <p><i>(d) that the Board receives and takes into account accurate, comprehensive, timely and up to date information on quality of care;</i></p> <p><i>(e) that the Licensee including its Board actively engages on quality of care with patients, staff and other relevant stakeholders and takes into account as appropriate views and information from these sources; and</i></p> <p><i>(f) that there is clear accountability for quality of care throughout the Licensee’s organisation including but not restricted to systems and/or processes for escalating and resolving quality issues including escalating them to the Board where appropriate.</i></p> <p><i>6. The Licensee shall ensure the existence and effective operation of systems to ensure that it has in place personnel on the Board, reporting to the Board and within the rest of the Licensee’s organisation who are sufficient in number and appropriately qualified to ensure compliance with the Conditions of this Licence. 5</i></p> <p><i>7. The Licensee shall submit to Monitor within three months of the end of each financial year:</i></p> <p><i>(a) a corporate governance statement by and on behalf of its Board confirming compliance with this Condition as at the date of the statement and anticipated compliance with this Condition for the next financial year, specifying any risks to compliance with this Condition in the next financial year and any actions it proposes to take to manage such risks</i></p>
<b>This means</b>	<p>This means that Providers should review whether their governance systems meet the standards and objectives in the condition. There is not a standard / set model but any compliant approach would involve effective Board and Committee structures, reporting lines, and performance and risk management systems.</p>
<b>Assurance</b>	<ul style="list-style-type: none"> <li>• Robust governance infrastructure and arrangements</li> <li>• Board and Board Committees (Audit, Nomination and Remuneration, Finance and Performance, Human Resources and Organisational Development and Healthcare Governance)</li> <li>• Trust Executive Group, Management Board Briefing / Clinical Management Board</li> <li>• Trust’s Risk Register</li> <li>• Business Planning Processes</li> </ul>

	<ul style="list-style-type: none"> <li>• Incident Management processes and procedures</li> <li>• Patient Experience Committee</li> <li>• Raising concerns process</li> <li>• Duty of Candour process</li> <li>• Appraisal process for Board of Director members</li> <li>• CQC inspection process and outcomes</li> <li>• Review meetings and discussions with NHS Improvement</li> </ul>
<b>Evidence</b>	<ul style="list-style-type: none"> <li>• Annual Board Statements</li> <li>• Annual Operational Plan 2019-20</li> <li>• Annual Reports and Accounts 2018-19 including Annual Governance Statement and Quality Accounts/Report</li> <li>• Head of Internal Audit Opinion Statement 2018</li> <li>• Making a Difference Corporate Strategy 2017-2020</li> <li>• Trust Constitution including Standing Orders, Standing Financial Instructions and Scheme of Reservation and Delegation</li> <li>• Terms of Reference for Board committees</li> <li>• Management Arrangements</li> <li>• Integrated Performance Report</li> <li>• Business Planning Guidance 2018-19</li> <li>• Integrated Risk and Assurance Reports 2018-19</li> <li>• Fit and Proper Persons requirement processes 2018-19</li> <li>• Appraisal process for Executive Directors and Non-Executive Directors</li> <li>• Safer Nursing Care Tool</li> <li>• Robust Responsible Officer arrangements for Medical Staff</li> <li>• Governor induction</li> <li>• Local, regional and national training and development opportunities via NHS Providers</li> <li>• Governor Forums and information sessions 2018-19</li> </ul>
<b>Self-certification</b>	Compliance status: Confirmed

### Condition CoS7(3): Availability of Resources

<p><b>Details of Condition</b></p>	<p>1. <i>The Licensee shall at all times act in a manner calculated to secure that it has, or has access to, the Required Resources.</i></p> <p>2. <i>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.</i></p> <p>3. <i>The Licensee, not later than two months from the end of each Financial Year, shall submit to NHS Improvement a certificate as to the availability of the Required Resources for the period of 12 months commencing on the date of the certificate, in one of the following forms:</i></p> <p>(a) <i>“After making enquiries the Directors of the Licensee have a reasonable expectation that the Licensee will have the Required Resources available to it after taking account distributions which might reasonably be expected to be declared or paid for the period of 12 months referred to in this certificate.”</i></p> <p>(b) <i>“After making enquiries the Directors of the Licensee have a reasonable expectation, subject to what is explained below, that the Licensee will have the Required Resources available to it after taking into account in particular (but without limitation) any distribution which might reasonably be expected to be declared or paid for the period of 12 months referred to in this certificate. However, they would like to draw attention to the following factors which may cast doubt on the ability of the Licensee to provide Commissioner Requested Services”.</i></p> <p>(c) <i>“In the opinion of the Directors of the Licensee, the Licensee will not have the Required Resources available to it for the period of 12 months referred to in this certificate”.</i></p>
<p><b>This means</b></p>	<p>This means that providers designated as providing Commissioner Requested Services will have the required resources to continue to provide those services for example management, financial, facilities and resources. Commissioner Requested Services are services that:</p> <ul style="list-style-type: none"> <li>• Services that should continue to be provided locally even if a provider is at risk of failing financially</li> <li>• There is no alternative provider close enough</li> <li>• Removing them would increase health inequalities</li> <li>• Removing them would make other related services unviable</li> </ul>
<p><b>Assurance</b></p>	<ul style="list-style-type: none"> <li>• Board of Directors</li> <li>• Audit, Finance and Performance and Human Resources and Organisational Development Committees</li> <li>• Trust Executive Group</li> </ul>

<b>Evidence</b>	<ul style="list-style-type: none"><li>• Going Concern assessment process</li><li>• External Audit Opinion</li><li>• Trust patient services contract(s)</li><li>• Financial Reports and updates, including Annual Accounts and supporting narrative</li><li>• Financial Plan 2019/20</li><li>• Operational Business Plans 2019/20</li><li>• Capital Programme 2019/20</li></ul>
<b>Self-certification</b>	Compliance status: Confirmed

## Governor Training (not a licence condition)

<b>Details of Condition</b>	<i>S151 (2) of the Health and Social Care Act:[Providers] must take steps to secure that the governors are equipped with the skills and knowledge they require ....</i>
<b>This means</b>	This means that providers 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.
<b>Assurance</b>	A robust programme of governor training is available and accessed by governors
<b>Evidence</b>	<ul style="list-style-type: none"> <li>• Governors induction 2018</li> <li>• Bespoke training sessions delivered by NHS Providers as part of the GovernWell programme (2017 / 2016 / 2015)</li> <li>• Governors attendance at various NHS Providers GovernWell events</li> <li>• Involvement in Directorate and Corporate work programmes/schemes</li> </ul>
<b>Self-certification</b>	Compliance status: Confirmed

**This self-certification is signed by Tony Pedder, Chairman of Sheffield Teaching Hospitals NHS Foundation Trust on behalf of the Board of Directors**

<b>Signed</b>	
<b>Dated</b>	<b>21 May 2019</b>