Introduction

1. NHS foundation trusts are required to self-certify whether or not they have: (1) 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, and the Health and Social Care Act 2012, and have regard to the NHS Constitution), (2) the required resources available if providing commissioner requested services (CRS); and (3) complied with governance requirements.

2. This note provides guidance on the annual self-certification that licence holders must complete under their NHS provider licence. It does not provide guidance on self-certifications that may be required, for example, under the annual planning review (APR).

What is required?

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

**NHS provider licence conditions**

- 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)).
- If providing commissioner requested services, the provider has a reasonable expectation that required resources will be available to deliver the designated service (Condition CoS7(3)).

4. The aim of self-certification is for providers to carry out assurance that they are in compliance with the conditions.

5. 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. We provide templates for boards to use in this process if they find them helpful.
6. This note explains what each provider licence condition means, as well as how to use the templates. Because it is up to each provider how it goes about self-certification, the 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 September 2017)
   e. the NHS foundation trust code of governance (July 2014)

7. If you have any questions not addressed in this note or any of the additional documents referred to, please contact your regional lead.

**Condition G6**

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

   a. identify risks to compliance
   b. 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.

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

**Using the template?**

10. Providers should choose 'confirmed' or 'not confirmed' as appropriate for the declaration.

11. Providers choosing 'not confirmed' should explain why in the free text box provided.
Condition FT4

12. NHS foundation trusts must self-certify under Condition FT4(8).

13. Providers should review whether their governance systems achieve the objectives set out in the licence condition.

14. There is no set approach to meeting these standards and objectives but we expect any compliant approach to involve effective board and committee structures, reporting lines and performance and risk management systems.

15. NHS foundation trusts can find further information on governance by referring to:
   a. well-led framework for governance reviews (last updated September 2017)
   b. the NHS foundation trust code of governance (July 2014)

Using the template?

16. Providers should select 'confirmed' or 'not confirmed' for each declaration as appropriate and set out relevant risks and mitigating actions in each case.

17. Providers choosing 'not confirmed' for any declaration should explain why in the free text box provided.

Training of governors

18. 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 (but see Monitor's guide for governors for guidance).

Using the template?

19. Providers should choose 'confirmed' or 'not confirmed' as appropriate for the declaration.

20. Providers choosing 'not confirmed' should explain why in the free text box provided.
Condition CoS7

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

What is commissioner requested services designation?

22. 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 a provider is at risk of failing financially and are subject to 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.

23. 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 been designated a CRS provider?

24. Foundation trusts authorised before 1 April 2016 will have been specifically notified by their commissioner if they have been designated CRS. They do not need to complete the CoS7 declaration if they have not been notified.

25. 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 declaration. After 12 months, unless they receive a specific designation from a commissioner, they are not designated a CRS provider and the CoS7 declaration is not required.

Using the template?

26. The template requires CRS-designated foundation trusts to select ‘confirmed’ for one of three declarations about the resources required to provide designated services:

   a. the required resources will be available over the next financial year
b. the required resources will be available over the next financial year but specific factors may cast doubt on this

c. the required resources will not be available over the next financial year.

Required resources include: management resources, financial resources and facilities, personnel, physical and other assets.

27. Only one declaration should be confirmed (and providers do not need to state the other two are not confirmed). Providers should explain the reasons for the chosen declaration in the free text box provided.

Sign off

28. The board must sign off on self-certification, taking into account the views of governors.

Deadlines

29. Boards must sign off on self-certification no later than:

a. G6/CoS7: 31 May 2018

b. FT4: 30 June 2018.

Audits

You are no longer required to return your completed provider licence self-certifications or templates to NHS Improvement. Instead, from July 2018 NHS Improvement will contact a select number of NHS trusts and foundation trusts to ask for evidence that they have self-certified. This can either be through providing the completed templates if they have used them, or relevant board minutes and papers recording sign-off.