

Paper 24

<b>Recommendation</b>	<div> <div>Trust Board</div> <div> <input checked="" type="checkbox"/> <b>DECISION</b>  <input type="checkbox"/> <b>NOTE</b> </div> </div> <p>is asked to <b>APPROVE</b> the annual self-certification for the NHS Provider Licence conditions</p>
<b>Reporting to:</b>	
<b>Date</b>	29 March 2018
<b>Paper Title</b>	Annual self-certification – NHS Provider Licence conditions
<b>Brief Description</b>	<p>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.</p> <p>Although NHS Trusts are exempt from needing a Provider Licence, directions from the Secretary of State require NHS Improvement (NHSI) to ensure that NHS trusts comply with conditions equivalent to the licence as it deems appropriate.</p> <p>Consequently, all provider NHS Trusts must self-certify the following after the financial year-end:</p> <ul style="list-style-type: none"> <li>• Condition G6(3) - the provider has taken all precautions necessary to comply with the licence, NHS Acts and NHS Constitution</li> <li>• Condition FT4(8) - the provider has complied with required governance arrangements</li> </ul> <p>The Trust Board is required to approve the self-certification statements for 2017/18 before 31 May 2018 (Condition G6) and 30 June 2018 (Condition FT4)</p> <p><b>Appendix A</b> - Self Certification Statements</p> <p><b>Appendix B</b> - Self-certification: guidance for NHS Trusts</p> <p><b>Appendix C</b> - NHS trusts Self-certification 2018: what, why and how</p> <p>Further statutory guidance to the NHS provider licence can be found in the supplementary Information Pack and via:  <a href="https://www.gov.uk/government/publications/the-nhs-provider-licence">https://www.gov.uk/government/publications/the-nhs-provider-licence</a></p>
<b>Sponsoring Director</b>	Director of Corporate Governance
<b>Author(s)</b>	Corporate Governance Manager
<b>Recommended / escalated by</b>	n/a
<b>Previously considered by</b>	<b>Trust Board (annually) 30/5/17</b>
<b>Link to strategic objectives</b>	All

<b>Link to Board Assurance Framework</b>	All
<b>Outline of public/patient involvement</b>	n/a
<b>Equality Impact Assessment</b>	<p><input checked="" type="radio"/> <b>Stage 1 only (no negative impacts identified)</b></p> <p><input type="radio"/> <b>Stage 2 recommended (negative impacts identified)</b> * EIA must be attached for Board Approval</p> <p><input type="radio"/> negative impacts have been mitigated</p> <p><input type="radio"/> negative impacts balanced against overall positive impacts</p>
<b>Freedom of Information Act (2000) status</b>	<p><input checked="" type="radio"/> <b>This document is for full publication</b></p> <p><input type="radio"/> This document includes FOIA exempt information</p> <p><input type="radio"/> This whole document is exempt under the FOIA</p>

This template may be used by NHS foundation trusts and NHS trusts to record the self-certifications that must be made under their NHS provider licence.  
You do not need to return your completed template to NHS Improvement unless it is requested for audit purposes.

## **Self-Certification Template - Condition FT4** **Shrewsbury and Telford Hospital NHS Trust**



Foundation Trusts and NHS trusts are required to make the following self-certifications to NHS Improvement:

*Corporate Governance Statement - in accordance with Foundation Trust condition 4 (Foundations Trusts and NHS trusts)*  
*Certification on training of Governors - in accordance with s151(5) of the Health and Social Care Act (Foundation Trusts only)*

These self-certifications are set out in this template.

### **How to use this template**

- 1) Save this file to your Local Network or Computer.
- 2) Enter responses and information into the yellow data-entry cells as appropriate.
- 3) Once the data has been entered, add signatures to the document.

Worksheet "FT4 declaration"

Corporate Governance Statement (FTs and NHS trusts)

The Board are required to respond "Confirmed" or "Not confirmed" to the following statements, setting out any risks and mitigating actions planned for each one

1	Corporate Governance Statement	Response	Risks and Mitigating actions	
1	The Board is satisfied that the Licensee applies 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.	Confirmed	Including where the Board is able to respond 'Confirmed'	Please complete Risks and Mitigating actions
2	The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time	Confirmed	Including where the Board is able to respond 'Confirmed'	Please complete Risks and Mitigating actions
3	The Board is satisfied that the Licensee has established and implements: (a) Effective board and committee structures; (b) Clear responsibilities for its Board, for committees reporting to the Board and for staff reporting to the Board and those committees; and (c) Clear reporting lines and accountabilities throughout its organisation.	Confirmed	Including where the Board is able to respond 'Confirmed'	Please complete Risks and Mitigating actions
4	The Board is satisfied that the Licensee has established and effectively implements systems and/or processes: (a) To ensure compliance with the Licensee's duty to operate efficiently, economically and effectively; (b) For timely and effective scrutiny and oversight by the Board of the Licensee's operations; (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; (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); (e) To obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making; (f) To identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence; (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 (h) To ensure compliance with all applicable legal requirements.	Confirmed	Including where the Board is able to respond 'Confirmed'	Please complete Risks and Mitigating actions
5	The Board is satisfied that the systems and/or processes referred to in paragraph 4 (above) should include but not be restricted to systems and/or processes to ensure: (a) That there is sufficient capability at Board level to provide effective organisational leadership on the quality of care provided; (b) That the Board's planning and decision-making processes take timely and appropriate account of quality of care considerations; (c) The collection of accurate, comprehensive, timely and up to date information on quality of care; (d) That the Board receives and takes into account accurate, comprehensive, timely and up to date information on quality of care; (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 (f) That there is clear accountability for quality of care throughout the Licensee including but not restricted to systems and/or processes for escalating and resolving quality issues including escalating them to the Board where appropriate.	Confirmed	Including where the Board is able to respond 'Confirmed'	Please complete Risks and Mitigating actions
6	The Board is satisfied that there are systems to ensure that the Licensee has in place personnel on the Board, reporting to the Board and within the rest of the organisation who are sufficient in number and appropriately qualified to ensure compliance with the conditions of its NHS provider licence.	Confirmed	Including where the Board is able to respond 'Confirmed'	Please complete Risks and Mitigating actions

Signed on behalf of the Board of directors, and, in the case of Foundation Trusts, having regard to the views of the governors

Signature	Signature
<div></div>	<div></div>
Name	Name

Further explanatory information should be provided below where the Board has been unable to confirm declarations under FT4.

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Please Respond



This template may be used by NHS foundation trusts and NHS trusts to record the self-certifications that must be made under their NHS provider licence.  
You do not need to return your completed template to NHS Improvement unless it is requested for audit purposes.

## **Self-Certification Template - Conditions G6 and CoS7**

### **Shrewsbury and Telford Hospital NHS Trust**



Foundation Trusts and NHS trusts are required to make the following self-certifications to NHS Improvement:

*Systems or compliance with licence conditions - in accordance with General condition 6 of the NHS provider licence*

*Availability of resources and accompanying statement - in accordance with Continuity of Services condition 7 of the NHS provider licence (Foundation Trusts designated CRS providers only)*

These self-certifications are set out in this template.

#### **How to use this template**

- 1) Save this file to your Local Network or Computer.
- 2) Enter responses and information into the yellow data-entry cells as appropriate.
- 3) Once the data has been entered, add signatures to the document.

Worksheet "G6 & CoS7"

Declarations required by General condition 6 and Continuity of Service condition 7 of the NHS provider licence

The board are required to respond "Confirmed" or "Not confirmed" to the following statements (please select 'not confirmed' if confirming another option). Explanatory information should be provided where required.

1 & 2 General condition 6 - Systems for compliance with license conditions (FTs and NHS trusts)

- 1 Following a review for the purpose of paragraph 2(b) of licence condition G6, the Directors of the Licensee are satisfied that, in the Financial Year most recently ended, the Licensee took all such precautions as were necessary in order to comply with the conditions of the licence, any requirements imposed on it under the NHS Acts and have had regard to the NHS Constitution.

Confirmed

OK

Signed on behalf of the board of directors, and, in the case of Foundation Trusts, having regard to the views of the governors

Signature

Signature

Name

Name

Capacity

[job title here]

Capacity

[job title here]

Date

Date

Further explanatory information should be provided below where the Board has been unable to confirm declarations under G6.

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# Self-certification: guidance for NHS trusts

March 2018

## Introduction

1. Last year was the first year that NHS trusts self-certified. Although NHS trusts are exempt from needing the provider licence, they are required to comply with conditions equivalent to the licence that NHS Improvement has deemed appropriate.
2. 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 Conditions G6 and FT4) and must self-certify under these licence provisions.
3. 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 Condition CoS7(3) does not apply to NHS trusts.**
4. This note provides guidance on the annual self-certification that NHS trusts are required to conduct in accordance with the requirements of the 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?

5. 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)).

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

7. 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.
8. 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. [Single Oversight Framework](#) (November 2017).
9. 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

10. Condition G6(2) requires NHS 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.

11. 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?

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

## Condition FT4

14. NHS trusts must self-certify under Condition FT4(8).
15. Providers should review whether their governance systems achieve the objectives set out in the licence condition.
16. 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.
17. NHS trusts can find further information on governance by referring to:
  - a. [well-led framework for governance reviews](#) (last updated September 2017)
  - b. [Single Oversight Framework](#) (November 2017).

### Using the template?

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

## Sign off

20. The board must sign off on self-certification.

## Deadlines

21. Boards must sign off on self-certification no later than:
  - a. Condition G6: 31 May 2018
  - b. Condition 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

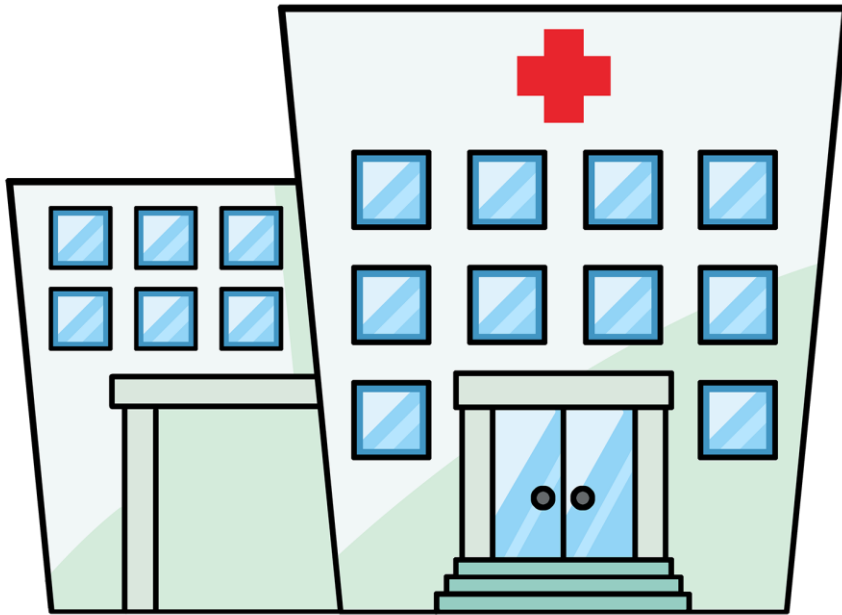
for evidence that they have self-certified. This can either be through providing the completed templates if they have used them, or relevant board minutes and papers recording sign-off.

NHS trusts

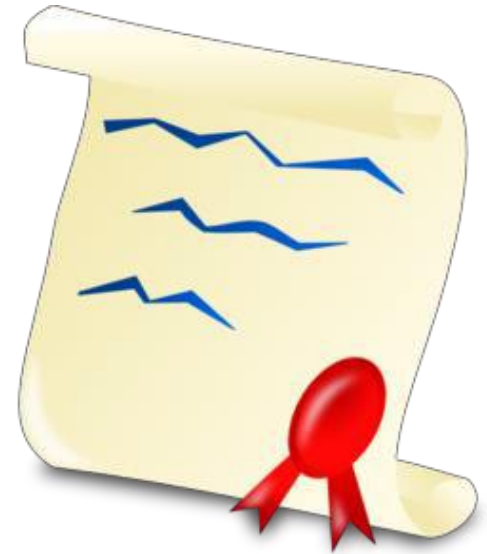
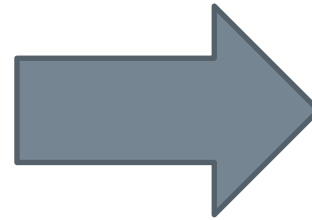
# Self-certification 2018: what, why and how

**March 2018**

# What is self-certification?



Providers carry out assurance that they have complied with the NHS provider licence and NHS acts, and have had regard to the NHS Constitution.



Board signs off that they are satisfied with compliance.

# Why do it?

The NHS provider licence requires two declarations:

## Condition G6(3)

Providers must certify that their board has taken all precautions necessary to comply with the licence, NHS acts and NHS Constitution.

## Condition FT4(8)

Providers must certify compliance with required governance standards and objectives.

# So why are NHS trusts required to self-certify?

NHS trusts are exempt from holding a provider licence

**BUT**

NHS trusts are required to comply with conditions equivalent to the licence that NHS Improvement has deemed appropriate.

SOF uses the NHS provider licence as a basis for oversight.

NHS trusts therefore are legally subject to the equivalent of certain licence conditions and in light of this now have to self-certify.



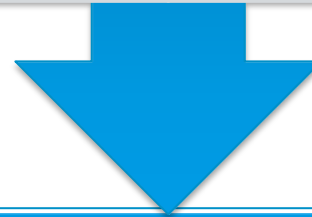
# What is required?



No set process for assurance or how conditions are met – reflective of autonomy.

How they do this is at providers' discretion.

Just need to ensure boards understand and can sign off on compliance.



No returns or information submissions.

Templates are provided to assist with the process but do not need to be returned (and this pack provides instructions on their use).

# Who and when?



[invisiblebread.com](http://invisiblebread.com)

# Condition G6

# Condition G6 – what does it say?

1. The Licensee shall take all reasonable precautions against the risk of failure to comply with:

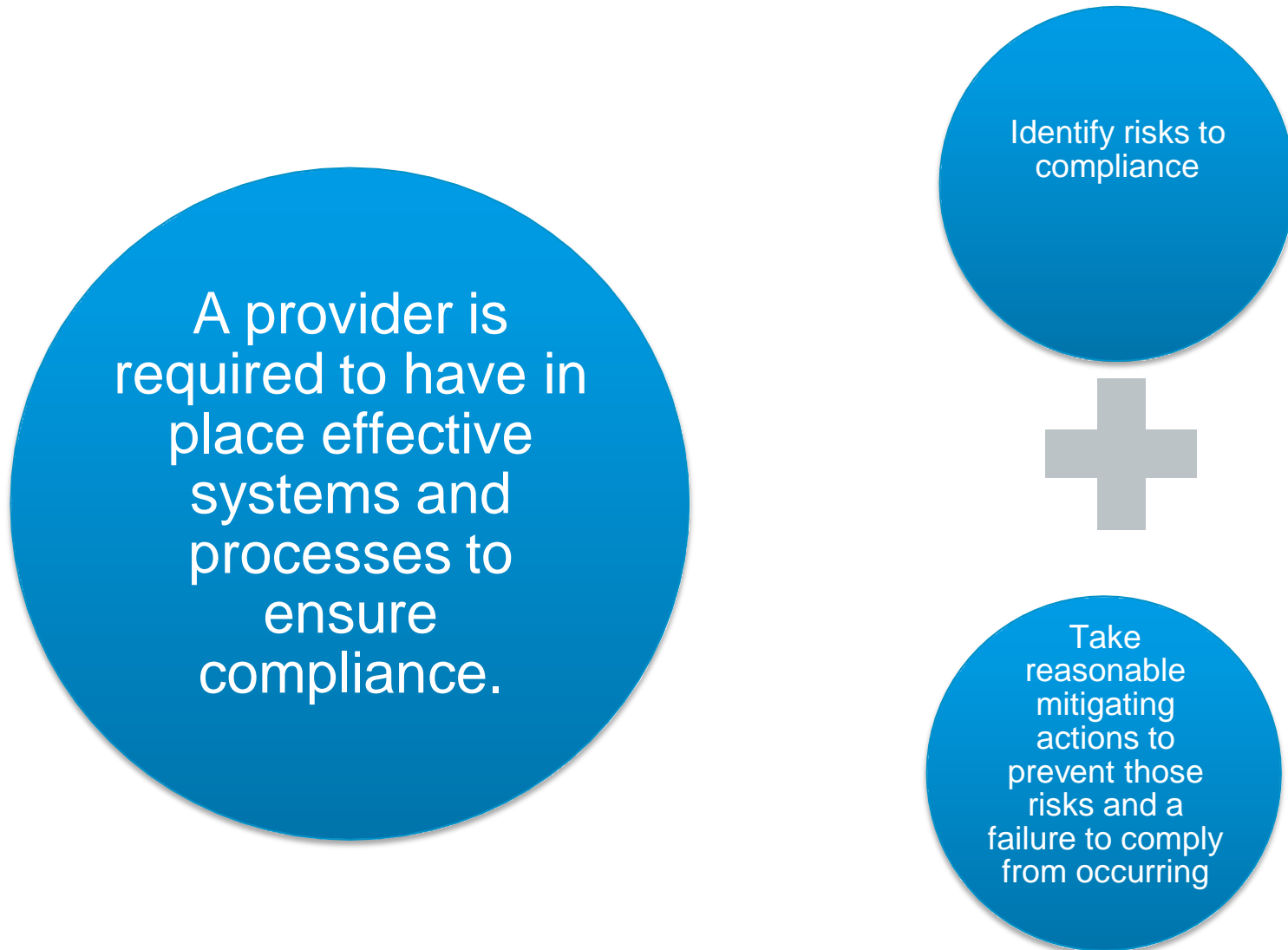
- (a) the Conditions of this Licence,
- (b) any requirements imposed on it under the NHS Acts, and
- (c) the requirement to have regard to the NHS Constitution in providing health care services for the purposes of the NHS.

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 NHS Improvement 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.

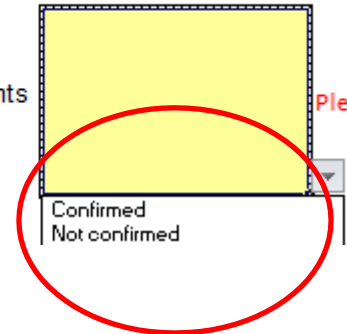
# Condition G6 – what does it actually mean?



# Condition G6 – how to use the template

## 1 & 2 General condition 6 - Systems for compliance with license conditions (FTs and NHS trusts)

- 1 Following a review for the purpose of paragraph 2(b) of licence condition G6, the Directors of the Licensee are satisfied that, in the Financial Year most recently ended, the Licensee took all such precautions as were necessary in order to comply with the conditions of the licence, any requirements imposed on it under the NHS Acts and have had regard to the NHS Constitution.



The image shows a form interface. It features a large yellow rectangular area for a response. Below this area is a dropdown menu with two visible options: 'Confirmed' and 'Not confirmed'. A red circle is drawn around the 'Not confirmed' option. To the right of the yellow area, the text 'Please Respond' is written in red.

Choose 'confirmed' or 'not confirmed' as appropriate.

If 'not confirmed', explain why in the free text box provided.

## Condition G6 – publication of self-certification



G6 self-certification must be published within a month following board sign-off.

The template provides text that can be used.

# Condition FT4

## Condition FT4 – what does it say?

2. 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.

[Please refer to the NHS [provider licence](#) for a list of standards, requirements and objectives.]

8. The Licensee shall submit to NHS Improvement within three months of the end of each financial year:

(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


# Condition FT4 – what does it actually mean?

Providers should review whether their governance systems meet the standards and objectives in the condition.



Similar to standards for NHS trusts in the TDA accountability framework

This should therefore represent a whole set of new standards.



No standard/set model

But any compliant approach will involve effective board and committee structures, reporting lines, and performance and risk management systems.

# Condition FT4 – how to use the template

## Corporate Governance Statement

The Board is satisfied that the Licensee applies 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.

The Board has regard to such guidance on good corporate governance as may be issued by NHS Improvement from time to time

The Board is satisfied that the Licensee has established and implements:

- (a) Effective board and committee structures;
- (b) Clear responsibilities for its Board, for committees reporting to the Board and for staff reporting to the Board and those committees; and
- (c) Clear reporting lines and accountabilities throughout its organisation.

The Board is satisfied that the Licensee has established and effectively implements systems and/or processes:

- (a) To ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;
- (b) For timely and effective scrutiny and oversight by the Board of the Licensee's operations;
- (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

## Response

## Risks and mitigating actions

Response	Risks and mitigating actions
<div>Confirmed Not confirmed</div>	
	[including where the Board is able to respond 'Confirmed']
	[including where the Board is able to respond 'Confirmed']
	[including where the Board is able to respond 'Confirmed']

Please Respond

Please Respond

Please Respond

Choose 'confirmed' or 'not confirmed' as appropriate.

For each response, detail identified risks to achieving the governance standards and any mitigating actions taken to avoid those risks

If 'not confirmed', explain why in the free text box provided at the bottom.

# Spot audits

# Spot audits



Require selected trusts to demonstrate that they have carried out the self-certification process.



Providers will need to provide the signed templates if they have used them, or other documentary evidence, such as board minutes, papers, etc.



Audits will start in July 2018.

# Further questions?



Contact your regional lead!