

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Royal National Hospital for Rheumatic Diseases NHS Foundation Trust (the "Licensee")
Upper Borough Walls
Bath
BA1 1RL

DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, Monitor has decided to accept from the Licensee the enforcement undertakings specified below pursuant to its powers under section 106 of the Health and Social Care Act 2012 ("the Act").

GROUNDINGS

1. Licence

The Licensee is the holder of a licence granted under section 87 of the Act.

2. Breaches

2.1. Financial breaches

2.1.1. Monitor has reasonable grounds to suspect that the Licensee has provided and is providing health care services for the purposes of the NHS in breach of the following conditions of its licence:CoS3(1) and FT4(5)(a).

2.1.2. In particular:

2.1.2.1. The Licensee has delivered an FRR1 since Q1 2012/13;

2.1.2.2. The Licensee is forecasting a £0.6m deficit in 2012/13 after recognising £2.1m of additional funding support received during the financial year, and a £3.6m deficit in 2013/14 (*prior to the provision of any non recurrent support*).This does not represent a sustainable financial position;

2.1.2.3. The Licensee will continue to require significant cash injections from the Department of Health to fund its forecast deficit position and essential capital expenditure.

2.1.2.4. These breaches by the Licensee demonstrate a failure of financial governance arrangements and financial management standards, in particular but not limited to a failure by the Licensee to establish and effectively implement systems and/or processes to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively.

2.1.3. Need for action

Monitor believes that the action which the Licensee has undertaken to take pursuant to the undertaking recorded here will secure that the breach in question does not continue or recur.

3. Appropriateness of Undertakings

In considering the appropriateness of accepting in this case the undertakings set out below, Monitor has taken into account the matters set out in its Enforcement Guidance.

UNDERTAKINGS

The Licensee has agreed to give and Monitor has agreed to accept the following undertakings, pursuant to section 106 of the Act:

1. Strategic Planning

- 1.1. The Licensee will address within a timescale to be agreed with Monitor the financial issues leading to the Licensee's non-compliance with its Licence.
- 1.2. The Licensee will by 30 June 2013 develop and submit to Monitor a statement of strategic intent (the "Statement of Strategic Intent") for addressing the financial issues leading to the Licensee's non-compliance with its Licence.
- 1.3. In developing the Statement of Strategic Intent the Licensee will:
 - 1.3.1. engage with and take into account fully the views of key stakeholders including its commissioners;
 - 1.3.2. ensure that it considers all credible strategic options and provide an appropriate rationale for their conclusions on each such option within the Statement of Strategic Intent; and
 - 1.3.3. include a preferred strategic option.
- 1.4. The Licensee will by 30 September 2013 develop a realistic and deliverable strategic plan (the "Strategic Plan"), taking into account as far as appropriate at that stage the Statement of Strategic Intent, to address within a timescale to be agreed with Monitor the financial issues leading to the Licensee's non-compliance with its Licence.
 - 1.4.1. In developing the Strategic Plan the Licensee will engage with and take into account fully the views of key stakeholders including its commissioners.
 - 1.4.2. The Strategic Plan will include, as a minimum:
 - 1.4.2.1. the Licensee's preferred strategic option;
 - 1.4.2.2. appropriate contingency planning including comprehensive downside consideration (including but not restricted to identification of elements not within the Licensee's control and how the Licensee proposes to address any associated risks to plan implementation);

- 1.4.2.3. dates, milestones and KPIs for seeking to achieve the preferred strategic option; and
 - 1.4.2.4. The Licensee's funding requirement for the delivery of the strategic option(s).
 - 1.4.3. The Licensee will provide such external assurance and/or assurance from the Licensee's board of directors as to the effectiveness of the Strategic Plan to achieve the outcome set out in 1.4 as agreed with Monitor.
 - 1.4.4. The Licensee will implement all of the actions in the Strategic Plan in accordance with timescales specified in the Strategic Plan.
- 1.5. The Licensee will implement sufficient programme management and governance arrangements to enable effective progress of the actions in the Statement of Strategic Intent and delivery of the Strategic Plan.
- 1.6. The Licensee will report to Monitor on the progress of the actions in the Statement of Strategic Intent and on the delivery of the Strategic Plan as required and in particular monthly on the first weekday of each month unless Monitor stipulates otherwise.

2. Updating

- 2.1. The Licensee will:
 - 2.1.1. Produce and submit to Monitor until further notice on a weekly basis a 13 week forecast rolling cash flow statement that has been approved by an executive director of the Board of the Licensee and identifies all material income and cost movements (including capital expenditure); and all known financial risks that could adversely impact the forecast cash position.
 - 2.1.2. Report to Monitor as required and at a minimum monthly in accordance with the submission dates communicated by Monitor, unless Monitor stipulates otherwise. Such monthly reports, where consisting of financial information, are to be entirely consistent with the monthly financial template provided by Monitor for submission by the Licensee and will report against the following:
 - 2.1.2.1. Financial risk rating;
 - 2.1.2.2. EBITDA;
 - 2.1.2.3. Surplus/(Deficit);
 - 2.1.2.4. Underlying surplus/(deficit);
 - 2.1.2.5. CIP;
 - 2.1.2.6. Recurrent CIP;
 - 2.1.2.7. Cash:

3. Meetings

- 3.1. The Licensee shall attend meetings (or if Monitor stipulates conference calls) with Monitor during the currency of the undertakings detailed in this notice to discuss its progress in meeting those undertakings. These meetings shall take place once a month unless Monitor otherwise stipulates, at a time and place to be specified by Monitor and with attendees specified by Monitor.

THE UNDERTAKINGS SET OUT HERE ARE WITHOUT PREJUDICE TO THE REQUIREMENT ON THE LICENSEE TO ENSURE THAT IT IS COMPLIANT WITH ALL THE CONDITIONS OF ITS LICENCE INCLUDING THOSE RELATING TO:

- COMPLIANCE WITH THE HEALTH CARE STANDARDS BINDING ON THE LICENSEE; AND
- COMPLIANCE WITH ALL REQUIREMENTS CONCERNING QUALITY OF CARE.

ANY FAILURE TO COMPLY WITH THE ABOVE UNDERTAKINGS WILL RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. THIS COULD INCLUDE THE IMPOSITION OF DISCRETIONARY REQUIREMENTS UNDER SECTION 105 OF THE ACT IN RESPECT OF THE BREACH IN RESPECT OF WHICH THE UNDERTAKING WAS GIVEN AND/OR REVOCATION OF THE LICENCE UNDER SECTION 89 OF THE ACT.

WHERE MONITOR IS SATISFIED THAT THE LICENSEE HAS GIVEN INACCURATE, MISLEADING OR INCOMPLETE INFORMATION IN RELATION TO THE UNDERTAKING: (i) MONITOR MAY TREAT THE LICENSEE AS HAVING FAILED TO COMPLY WITH THE UNDERTAKING; AND (ii) IF MONITOR DECIDES SO TO TREAT THE LICENSEE, MONITOR MUST BY NOTICE REVOKE ANY COMPLIANCE CERTIFICATE GIVEN TO THE LICENSEE IN RESPECT OF COMPLIANCE WITH THE RELEVANT UNDERTAKING.

LICENSEE

Dated : 23rd April 2013



PETER FRANKLYN

Signed (Chair of Licensee)

[Name of Signatory]

MONITOR 23 April 2013

Dated



Signed (Chair of relevant decision-making committee)