

FINAL NOTICE: DISCRETIONARY REQUIREMENTS

LICENSEE:

Tameside Hospital NHS Foundation Trust
Fountain Street
Ashton-under-Lyne
OL6 9RW

DECISION

On the basis of the grounds set out below, having taken into account representations by the Licensee and having regard to its Enforcement Guidance, Monitor has decided to impose the discretionary requirements specified below upon the Licensee pursuant to its powers under section 105 of the Health and Social Care Act 2012 ("the Act").

ANTICIPATED EFFECT OF DECISION

Monitor anticipates that the effect of imposing the discretionary requirement(s) will be as set out below under the heading(s) 'Need for Action' in the section below headed 'Grounds'.

GROUND(S)

1. Licence

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

2. Power to impose discretionary requirements

2.1. Governance breaches

2.1.1. Monitor is satisfied 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: FT4(5)(a), FT4(5)(b), FT4(5)(d), FT4(5)(f), FT4(5)(g) and COS3(1)(a) and COS3(1)(b).

2.1.2. In particular:

2.1.2.1 The Trust does not yet have a fully developed strategic plan to secure its long-term clinical and financial sustainability, despite the time that has elapsed since October 2010 when Monitor first highlighted to the Trust the need for such a plan.

2.1.2.2 The failure to fully develop the plan and the Trust's failure to deliver all milestones set out by Monitor in relation to this issue over the last twelve months gives Monitor

cause to concern. The situation is exacerbated by the Trust's fragile liquidity position.

2.1.3 Need for action:

Monitor considers that the imposition of the compliance requirements set out below will secure that the breach in question does not continue or recur.

3. Appropriateness of Discretionary Requirements

In considering the appropriateness of imposing discretionary requirements in this case, Monitor has taken into account the matters set out in its Enforcement Guidance.

DISCRETIONARY REQUIREMENTS

Monitor has decided to impose the following compliance requirement(s) pursuant to section 105 of the Act:

- 3.1 The Addressee must, by 30 April 2013, complete and submit to Monitor a fully developed three-year strategic plan ("**the Strategic Plan**") to ensure the Addressee secures its long-term clinical and financial sustainability by 31 March 2016 (see 3.9 below).
- 3.2 The Addressee must ensure that the Strategic Plan is submitted using Monitor's 2013/14 Annual Planning financial template and forward plan strategy document template, available at <http://www.monitor-nhsft.gov.uk/regulating-health-care-providers-commissioners/information-nhs-foundation-trusts/planning-and-report>
- 3.3 Within the Strategic Plan, the Addressee must provide clear milestones for the delivery of the strategic collaboration(s) required to secure its long-term financial and clinical viability. The Addressee must, unless otherwise agreed with Monitor, deliver all of these milestones.
- 3.4 The Addressee must commission an external review of the Strategic Plan subsequent to its submission to Monitor, to be completed by 14 June 2013. The external review shall be from a source and according to a scope to be agreed with Monitor. The report from the external review shall be submitted by 14 June 2013.
- 3.5 The Addressee must make such modifications to the Strategic Plan as are reasonably necessary to address any recommendations arising from the external review and will re-submit an updated Strategic Plan to Monitor within one week of being modified.
- 3.6 The Addressee must implement sufficient programme management and governance arrangements to enable the delivery of the Strategic Plan.
- 3.7 The Addressee must deliver the Strategic Plan and all the milestones within it.

3.8 The Addressee must report to Monitor, on a monthly basis and until further notice, its financial performance against the Strategic Plan with respect to the following key financial metrics:

- a) Income & expenditure position
- b) EBITDA
- c) Recurrent and non-recurrent CIP delivery
- d) Liquidity days and cashflow
- e) Debt service cover

Progress against delivering the milestones referred to in section iii) above will also be monitored on a monthly basis.

3.9 The Addressee shall implement any other actions necessary to return the Addressee to a financially and clinically sustainable position, where it:

- a) is forecasting delivery of a surplus 2013/14 and for each of the following two years;
- b) is able to generate net positive cash flows from 2013/14 onwards;
- c) is able to pay its debts as they fall due without requiring Department of Health funding;
- d) is maintaining acceptable levels of clinical performance (as determined by the Care Quality Commission and commissioners) and is likely to continuing maintaining an acceptable level; and
- e) has the necessary organisation structure, operating model, governance, risk management and operational processes in place to deliver its immediate corporate objectives and longer term strategy.

4. Meetings

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

THE REQUIREMENTS IN THIS NOTICE 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:

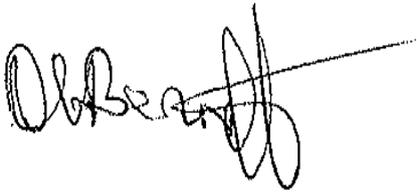
- **COMPLIANCE WITH THE HEALTH CARE STANDARDS BINDING ON THE LICENSEE; AND**
- **COMPLIANCE WITH ALL REQUIREMENTS CONCERNING QUALITY OF CARE.**

ANY FAILURE TO COMPLY WITH REQUIREMENTS UNDER SECTION 105 OF THE ACT WILL RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. THIS COULD INCLUDE THE IMPOSITION OF A NON-COMPLIANCE PENALTY PURSUANT TO SECTION 105 AND SCHEDULE 11 OF THE ACT AND/OR REVOCATION OF THE LICENCE UNDER SECTION 89 OF THE ACT

THE LICENSEE MAY APPEAL A DECISION UNDER SECTION 105 OF THE ACT TO THE FIRST-TIER TRIBUNAL ON THE GROUNDS THAT A) THE DECISION IS BASED ON AN ERROR OF FACT; B) THE DECISION IS WRONG IN LAW; C) THE NATURE OF ANY COMPLIANCE REQUIREMENT IS UNREASONABLE OR D) THAT THE DECISION IS UNREASONABLE FOR ANY OTHER REASON.

MONITOR

Dated 24 April 2013

A handwritten signature in black ink, appearing to read 'David Bennett', with a long horizontal stroke extending to the right.

Signed David Bennett
Chair of relevant decision-making committee