

NOTICE OF IMPOSITION OF ADDITIONAL LICENCE CONDITION

LICENSEE:

Norfolk and Norwich University Hospitals NHS Foundation Trust ("the Licensee")
Colney Lane
Norwich
NR4 7UY

DECISION

On the basis of the grounds set out below, having taken into account representations from the Licensee and having had regard to its Enforcement Guidance, Monitor has decided to impose the additional licence condition specified below on the Licensee pursuant to its powers under section 111 of the Health and Social Care Act 2012 ("the Act").

THE LICENCE IS AMENDED AS FOLLOWS:

After Condition FT4, insert:

"Additional Licence Condition 1 – Additional governance requirements:

1. *The Licensee must ensure that it has in place -*
 - (a) an effectively functioning board and board committees;*
 - (b) sufficient and effective board, management and clinical leadership capacity and capability; and*
 - (c) appropriate governance systems and processes**to enable it to successfully meet the undertakings set out at paragraphs 1 to 6 of the Enforcement Undertakings agreed by the Licensee dated 20 April 2015."*

ANTICIPATED EFFECT OF THE ADDITIONAL CONDITION:

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

INCIDENTAL OR CONSEQUENTIAL MODIFICATIONS REQUIRED AS A RESULT OF THE IMPOSITION OF THE ADDITIONAL CONDITION:

No incidental or consequential modifications would be required to the Licensee's licence.

NOTICE PERIOD:

The notice period within which the Licensee may make representations to Monitor regarding this proposal is five working days ending on 14 April 2015.

GROUNDS

1. Licence

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

2. Power to impose additional licence condition(s)

2.1. Monitor is satisfied that the governance of the Licensee is such that the Licensee will fail to comply with the conditions of its licence, specifically: FT4(2); FT4(4)(b); FT4(5)(a); FT4(5)(b); FT4(5)(c); FT4(5)(f); FT4(5)(g); FT4(5)(h) and FT4(7).

2.2. Need for action:

2.2.1. The Licensee breached the accident and emergency services ("A&E") 4-hour wait target in Q1, Q2 and Q3 2014/2015;

2.2.2. The Licensee breached the cancer 62-day wait for first treatment from urgent general practitioner ("GP") referral for suspected cancer target in Q1, Q2 and Q3 2014/2015;

2.2.3. The Licensee breached the cancer 31-day wait for second or subsequent treatment comprising surgery target in Q1, Q2 and Q3 2014/2015;

2.2.4. The Licensee breached the maximum time of 18 weeks from point of referral to treatment in aggregate ("RTT") both admitted and non-admitted targets in Q2 and Q3 2014/2015; and

2.2.5. The Licensee breached the RTT incomplete pathways target in Q3 2014/2015.

2.2.6. There are concerns acknowledged by the Licensee about senior management and executive board capacity and the balance between operational and strategic focus. These concerns are derived from several sources including the Licensee's stakeholders and reports by Newton, the Department of Health's Emergency Care Intensive Support Team and the Strategic Clinical Network which highlight issues relating to the Licensee's senior management capacity, its change management capacity and the need for a longer term view of workforce in respect of its cancer services. In particular:

2.2.6.1. there was and may still be a lack of sufficient senior management capacity to adequately address current and future operational performance issues and ongoing strategic matters;

2.2.6.2. there is a lack of adequate plans in place to deal with operational performance issues;

- 2.2.6.3. executive board members are failing to deal adequately with clinical performance issues; and
- 2.2.6.4. executive board members have not had sufficient capacity to focus on effective longer term strategy development and implementation.
- 2.2.7. There are concerns, acknowledged by the Licensee and shared by Monitor and other stakeholders, about the effective functioning of the Board of Directors.

In light of these matters, Monitor is satisfied that the Board is failing to secure compliance with the Licensee's licence conditions identified above and is failing properly to take steps to reduce the risk of breaches of the conditions. Monitor considers that the imposition of the condition specified above would be appropriate for reducing the risk of non-compliance of the licence conditions identified above.

3. Appropriateness of Imposition of Additional Licence Condition

In considering the appropriateness of imposing the additional condition, Monitor has taken into account the matters set out in its Enforcement Guidance.

THE REQUIREMENTS OF THE ADDITIONAL LICENCE CONDITION WOULD BE WITHOUT PREJUDICE TO (i) ANY ENFORCEMENT UNDERTAKINGS GIVEN BY THE LICENSEE PURSUANT TO SECTION 106 OF THE ACT AND (ii) 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 THIS ADDITIONAL LICENCE CONDITION WILL RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. THIS COULD INCLUDE REQUIRING THE LICENSEE TO REMOVE ONE OR MORE OF THE DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS AND APPOINT INTERIM DIRECTORS OR MEMBERS, SUSPEND ONE OR MORE DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS FOR A SPECIFIED PERIOD AND/OR DISQUALIFY ONE OR MORE DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS FOR A SPECIFIED PERIOD. THIS COULD INCLUDE ALSO OR INSTEAD ACTION UNDER SECTIONS 105 OR 106 OF THE ACT TO IMPOSE DISCRETIONARY REQUIREMENTS OR ACCEPT UNDERTAKINGS. MONITOR IS ALSO ABLE TO TAKE ACTION UNDER SECTION 89 TO REVOKE THE LICENSEE'S LICENCE.

MONITOR

Dated 29/04/15

Signed

A handwritten signature in black ink, consisting of a stylized 'B' followed by a series of loops and a horizontal line.