

ENFORCEMENT UNDERTAKINGS

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, 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").

GROUND

1. Licence

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

BREACHES

2. Target Breaches

2.1. Monitor has reasonable grounds to suspect that the Licensee has provided and is providing healthcare services for the purposes of the NHS in breach of the following conditions of its licence: FT4(5)(a); FT(4)(5)(b); FT4(5)(c); FT4(5)(f) and FT4(5)(g).

2.2. In particular:

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.

2.3. The breaches by the Licensee detailed in 2.2. above demonstrate a failure of governance arrangements in particular but not limited to a failure by the Licensee to establish and effectively implement systems and/or processes (i) to ensure compliance with its duty to operate efficiently, economically and effectively and (ii) 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 ("CQC"), the NHS Commissioning Board and statutory regulators of health care professions.

3. Governance Breaches

3.1. Monitor has reasonable grounds to suspect that the Licensee has provided and is providing healthcare services for the purposes of the NHS in breach of the following conditions of its licence: 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).

3.2. In particular:

3.2.1. 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:

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

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

3.2.1.3. executive board members are failing to deal adequately with clinical performance issues; and

3.2.1.4. executive board members have not had sufficient capacity to focus on effective longer term strategy development and implementation.

3.2.2. There are concerns, acknowledged by the Licensee and shared by Monitor and other stakeholders, about the effective functioning of the Board of Directors.

3.3. The breaches by the Licensee detailed in 3.2 above demonstrate a failure of governance arrangements in particular but not limited to a failure by the Licensee to establish and effectively implement systems and/or processes (i) to ensure compliance with its duty to operate efficiently, economically and effectively (ii) to identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the conditions of its licence and (iii) to ensure the existence and effective operation of systems to ensure that it has in place personnel on its board, reporting to the board and within the rest of its organisation who are sufficient in number and appropriately qualified to ensure compliance with the conditions of its licence.

3.4. Need for action

Monitor believes that the action, which the Licensee has undertaken to take pursuant to these undertakings, will secure that the breaches in question do not continue or recur.

4. Appropriateness of Undertaking

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

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

1. Emergency Care

- 1.1. The Licensee will take all reasonable steps to achieve compliance with the A&E four-hour wait target on a sustainable basis.
- 1.2. The Licensee will develop and deliver an A&E improvement plan (the "A&E Plan") to enable it to comply with paragraph 1.1 and agree the A&E Plan with Monitor by 30 April 2015, or such later date as agreed with Monitor. The A&E Plan will be developed in consultation with key stakeholders including local commissioners and will include a trajectory for performance improvement showing when the Licensee expects to meet the target.
- 1.3. The Licensee will keep the A&E Plan and its delivery under review. Where matters are identified which materially affect the Licensee's ability to meet the requirements of paragraph 1.1, whether identified by the Licensee or another party, the Licensee will notify Monitor as soon as practicable and update and resubmit the A&E Plan within a timeframe to be agreed with Monitor.
- 1.4. The Licensee will obtain external assurance that the A&E Plan (including any subsequent updates) and its delivery will enable it to comply with paragraph 1.1.

The source, scope and timing of that assurance will be agreed with Monitor, and the assurance will be provided to Monitor if Monitor so requests.

2. Cancer

2.1. The Licensee will take all reasonable steps to achieve compliance with the following two cancer targets on a sustainable basis while ensuring that compliance with other cancer targets is maintained:

2.1.1. cancer 62-day wait for first treatment from urgent GP referral for suspected cancer; and

2.1.2. cancer 31-day wait for second or subsequent treatment comprising surgery.

2.2. The Licensee will develop and deliver a cancer improvement plan (the "Cancer Plan") to enable it to comply with paragraph 2.1 and agree the Cancer Plan with Monitor by 25 May 2015, or such later date as agreed with Monitor. The Cancer Plan will be developed in consultation with key stakeholders including local commissioners and will include a trajectory for performance improvement showing when the Licensee expects to meet the targets.

2.3. The Licensee will keep the Cancer Plan and its delivery under review. Where matters are identified which materially affect the Licensee's ability to meet the requirements of paragraph 2.1, whether identified by the Licensee or another party, the Licensee will notify Monitor as soon as practicable and update and resubmit the Cancer Plan within a timeframe to be agreed with Monitor.

2.4. The Licensee will obtain external assurance that the Cancer Plan (including any subsequent updates) and its delivery will enable it to comply with paragraph 2.1. The source, scope and timing of that assurance will be agreed with Monitor, and the assurance will be provided to Monitor if Monitor so requests.

3. RTT

3.1. The Licensee will take all reasonable steps to achieve compliance with the following three RTT targets as nationally defined on a sustainable basis:

3.1.1. the maximum time of 18 weeks from point of referral to treatment in aggregate for admitted patients;

3.1.2. the maximum time of 18 weeks from point of referral to treatment in aggregate for non-admitted patients; and

3.1.3. the maximum time of 18 weeks from point of referral to treatment in aggregate for patients on an incomplete pathway.

3.2. The Licensee will develop and deliver an RTT improvement plan (the "RTT Plan") to enable it to comply with paragraph 3.1 and agree the RTT Plan with Monitor by

25 May 2015, or such later date as agreed with Monitor. The RTT Plan will be developed in consultation with key stakeholders including local commissioners and will include a trajectory for performance improvement showing when the Licensee expects to meet the targets.

- 3.3. The Licensee will keep the RTT Plan and its delivery under review. Where matters are identified which materially affect the Licensee's ability to meet the requirements of paragraph 3.1, whether identified by the Licensee or another party, the Licensee will notify Monitor as soon as practicable and update and resubmit the RTT Plan within a timeframe to be agreed with Monitor.
- 3.4. The Licensee will obtain external assurance that the RTT Plan (including any subsequent updates) and its delivery will enable it to comply with paragraph 3.1. The source, scope and timing of that assurance will be agreed with Monitor, and the assurance will be provided to Monitor if Monitor so requests.

4. Governance Action Plan

- 4.1. The Licensee will take all reasonable steps to address the governance issues set out in paragraph 3 'Governance Breaches' of the section headed 'Breaches'.
- 4.2. The Licensee will develop and deliver a governance action plan (the "Governance Action Plan") to meet the requirements of paragraph 4.1 and to address all findings of an independent review into governance and board effectiveness ("Governance Review") commissioned by the Licensee and due to be completed by 22 May 2015. The Licensee will agree the Governance Action Plan with Monitor by 30 June 2015, or such later date as agreed with Monitor.
- 4.3. The Licensee will keep the Governance Action Plan and its delivery under review. Where matters are identified which materially affect the Licensee's ability to address the findings of the Governance Review and meet the requirements of paragraph 4.1, whether identified by the Licensee or another party, the Licensee will notify Monitor as soon as practicable and update and resubmit the Governance Action Plan within a timeframe to be agreed with Monitor.
- 4.4. The Licensee will obtain external assurance that the Governance Action Plan (including any subsequent updates) and its delivery will enable it to address the findings of the Governance Review and meet the requirements of paragraph 4.1. The source, scope and timing of that assurance will be agreed with Monitor, and the assurance will be provided to Monitor if Monitor so requests.

5. Long Term Strategy

- 5.1. The Licensee will work in partnership with its local clinical commissioners to develop, by 30 September 2015 or such later date as agreed with Monitor, a cohesive long term strategy providing an outlook of at least three years to address the increasing demand for services and the capacity to meet that demand within the local health economy.

- 5.2. Based on the long-term strategy referred to in paragraph 5.1, by 30 September 2015 or such later date as agreed with Monitor, the Licensee will submit to Monitor its strategy to address the increasing demand and capacity pressures at the Licensee (the "Strategy"). The Strategy should be supported by the Licensee's commissioners and aligned to their commissioning intentions.
- 5.3. The Licensee will implement the Strategy in accordance with the milestones and timeframes set out in the Strategy.

6. Programme Management

- 6.1. By 25 May 2015 or such later date as agreed with Monitor, the Licensee will implement programme management and governance arrangements to enable the Board to monitor and measure the delivery of the A&E Plan, the Cancer Plan and the RTT Plan and the Governance Action Plan (together the "Plans"). Such arrangements must enable the Board to:
 - 6.1.1 obtain a clear oversight over the progress in delivering the Plans;
 - 6.1.2 obtain an understanding of any risks to the successful achievement of the Plans; and
 - 6.1.3 hold individuals to account for delivery of the actions in the Plans.

7. Meetings

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

THE UNDERTAKINGS SET OUT ABOVE ARE WITHOUT PREJUDICE TO THE REQUIREMENT ON THE LICENSEE TO ENSURE THAT IT IS COMPLIANT WITH ALL THE CONDITIONS OF ITS LICENCE, INCLUDING ANY ADDITIONAL LICENCE CONDITION IMPOSED UNDER SECTION 111 OF THE ACT AND THOSE CONDITIONS RELATING TO:

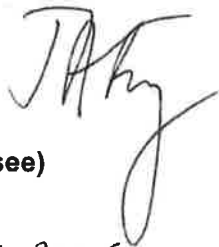
- **COMPLIANCE WITH THE HEALTH CARE STANDARDS BINDING ON THE LICENSEE; AND**
- **COMPLIANCE WITH ALL REQUIREMENTS CONCERNING QUALITY OF CARE.**

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

UNDERTAKINGS WERE GIVEN AND/OR REVOCATION OF THE LICENCE PURSUANT TO SECTION 89 OF THE ACT.

WHERE MONITOR IS SATISFIED THAT THE LICENSEE HAS GIVEN INACCURATE, MISLEADING OR INCOMPLETE INFORMATION IN RELATION TO THE UNDERTAKINGS: (i) MONITOR MAY TREAT THE LICENSEE AS HAVING FAILED TO COMPLY WITH THE UNDERTAKINGS; 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 UNDERTAKINGS.

LICENSEE



Signed (Chair of Licensee)

Dated: 20 April 2015

MONITOR



Signed (Chair of relevant decision-making committee)

Dated: 24 April 2015