

NOTICE OF IMPOSITION OF ADDITIONAL LICENCE CONDITION PURSUANT TO SECTION 111 OF THE HEALTH & SOCIAL CARE ACT 2012

TO:

The Bradford Teaching Hospitals NHS Foundation Trust (“**the Licensee**”)
Bradford Royal Infirmary
Duckworth Lane
Bradford
BD9 6RJ

DECISION:

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS England has imposed 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 NHS 2 (Governance arrangements), insert:

“Additional licence conditions 1 and 2 – Additional governance arrangements

- 1) The Licensee must ensure that it has in place sufficient and effective board leadership capacity and capability, as well as an effectively functioning Council of Governors, to enable it to:
 - a. have a Board which functions effectively, including during any period in which the Licensee is conducting, or subject to, or responding to the outcome of:
 - i. investigations into board governance and allegations about conduct of board members, including the independent investigation of concerns regarding race, inequality and victimisation at the Licensee, and
 - ii. inspections by Care Quality Commission;
 - b. address the issues faced by the Licensee in relation to board governance and the working relationships between board members; and
 - c. address any other issues relating to governance or operations that have caused or contributed to, or are causing or contributing to, or will cause or contribute to, the breach of the conditions of the Licensee’s licence.

- 2) The Licensee’s Council of Governors must implement arrangements to ensure it discharges its role and responsibilities effectively, including its duties to hold non-executive directors to account for the performance of the board and representing interests of the Licensee’s members, the public and staff.”

ANTICIPATED EFFECT OF THE ADDITIONAL CONDITIONS:

NHS England anticipates that the effect of imposing the additional conditions will be as set out in paragraph 2.2 below under the heading 'Grounds for Action'.

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

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

GROUNDINGS FOR ACTION

1. Licence

The Licensee is the holder of a licence granted under section 87 of the Act and an NHS foundation trust.

2. Power to impose additional licence conditions

2.1. NHS England is satisfied that the governance of the Licensee is such that the Licensee will fail to comply with one or more of the conditions of its Licence, in particular conditions NHS2.2, 2.4, 2.5(a), (b), (d) and (f) and 2(6).

2.2. NHS England has in particular considered the following matters:

2.2.1. The Licensee commissioned an independent review in January 2023 further to governance and leadership concerns including those raised by the former chair. In September 2023, the review report concluded a number of recommendations and actions that necessitated action by the Licensee.

2.2.2. The former chair wrote a public letter on 3 October 2023 referencing nine areas of concern. The former chair subsequently resigned on 3 October 2023 citing a number of clinical quality and governance concerns. Interim governance arrangements were put in place pending appointment of replacement Chair.

2.2.3. In response to a series of Rapid Quality Review meetings held in response to concerns which included the management of a cohort of serious incidents, NHS England agreed to establish a Quality Improvement Group (QIG) in December 2023. Although the QIG received appropriate assurances on the safety of the neonatal service, the establishment of the QIG indicated the need for intensive assurance and improvement action, necessitated by the serious and ongoing nature of the quality concerns relating to the Licensee's services

2.2.4. Also, following the chair's resignation, there has been subsequent deterioration in relationships between members of the Board and a series of complaints, including in relation to culture and behaviour, made by some

members against others. As a result, there are a number of separate on-going investigations in relation to concerns raised about different members of the Board. The complaints and investigations, and the deterioration in board relationships, give rise to significant concerns as to how the Board is operating and the potential impact of these issues on the effective functioning of the Board and its oversight and scrutiny of the Licensee's operations.

2.2.5. The Care Quality Commission (CQC) is also in the process of carrying out three inspections relating to Medical Care, Maternity & Neonatal, and "Well-Led". NHS England understand the inspections have been instituted following concerns raised with the CQC about the Licensee's services and governance.

2.2.6. The Licensee's annual planning indicates that it will be in deficit at the end of financial year 2024/25 by around £14m. NHS England is concerned this indicates a deterioration of effective financial decision-making and control, and that further action is required by the Licensee to address the financial position.

2.3. In light of the above, NHS England is satisfied that the governance of the Licensee is such that the Licensee is failing or will fail to comply with the conditions of its licence.

2.4. NHS England considers that the imposition of the condition specified above is appropriate for reducing the risk of non-compliance identified above.

3. Appropriateness of additional licence conditions

In considering the appropriateness of imposing the additional condition(s) proposed in this case, NHS England has taken into account its Enforcement Guidance.

The requirements of the proposed additional licence conditions would be without prejudice to:

(a) the requirements of any enforcement undertaking given by the Licensee; and

(b) 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;*
- effective financial decision-making, management and control;*
- compliance with all requirements concerning quality of care.*

Any failure to comply with the proposed additional licence condition would render the Licensee liable to further formal action by NHS England.

NHS ENGLAND

Dated: 15 August 2024

Signed:

A handwritten signature in black ink, appearing to read 'Robert Cornall', with a stylized flourish at the end.

Robert Cornall

Interim Regional Director, North East and Yorkshire, and
Chair of the North East and Yorkshire Regional Support Group
NHS England