

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

TO:

Lancashire Teaching Hospitals NHS Foundation Trust ("the Licensee")
Royal Preston Hospital
Sharoe Green Lane
Fulwood
Preston
PR2 9HT

PROPOSAL:

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS England proposes 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 WOULD BE AMENDED AS FOLLOWS:

After Condition NHS2 (Governance arrangements), insert:

"Additional licence condition 1 – Additional governance arrangements

1) The Licensee must ensure that it has in place sufficient and effective board and management leadership capacity and capability, as well as appropriate governance systems and processes, to enable it to –

- a) address and resolve its financial performance issues, specifically the Licensee will deliver a quarter-on-quarter run rate improvement from Quarter 4 2024/25 and throughout 2025/26, to enable the Licensee to return to delivery of the financial plan agreed with NHS England.
- b) comply with the enforcement undertakings accepted on 4 March 2025 by NHS England which relate to the issues set out at paragraph (a); 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."

ANTICIPATED EFFECT OF THE ADDITIONAL CONDITION:

NHS England anticipates that the effect of imposing the additional condition will be as set out in paragraph 2.2.4 in the section headed 'Grounds for Intended Action'.

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

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

NOTICE PERIOD

The Licensee has until 18 March 2025 to make representations to NHS England regarding the imposition of the proposed additional licence condition.

GROUND'S FOR INTENDED ACTION

1. Licence

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

2. Power to impose additional licence condition

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(5)(a) -(d), and (g) NHS2(5)(f), NHS2(6)(a)-(d) and NHS(6)(f), NHS2(7), and COS3.

2.2. Need for action:

2.2.1 NHS England is seeking new enforcement undertakings from the Licensee to address financial under-performance and failings in financial governance. This follows undertakings agreed in May 2018 in relation to breaches of the governance conditions of the Licensee's licence for issues including financial performance. Revised—undertakings were agreed in December 2021 and then most recently on 24 June 2024. Despite undertakings being in place for seven years, the Licensee has been unable to comply with these.

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

2.2.2.1. the Licensee's financial position is significantly adrift from plan. At Month 8 2024/25 the Licensee reported a year-to-date (YTD) deficit of £42.1m (excluding receipt of deficit support funding (DSF)).

2.2.2.2. the Licensee has a significant increasing underlying deficit of concern for 2024/25. The 2024/25 plan of £21.9m deficit, including a Cost Improvement Plan (CIP) of 6.9%. The Month 8 YTD deficit (excluding DSF) is £42.1m and there is significant risk of a forecast outturn deficit of £ 65.9m (excluding DSF).

2.2.2.3. a financial diagnostic review was conducted across the Lancashire and South Cumbria System in December 2024 by PWC (Financial Diagnostic Review) to identify the drivers to the organisations' underlying deficits and the options to mitigate. The Financial Diagnostic Review found limited assurance in relation to the Licensee's ability to mitigate its deficit position based, in part, on issues of financial governance and oversight.

2.2.2.4. the scale of the Licensee's financial deficit and the variance in relation to annual financial planning indicates serious concerns regarding effective decision-making and control and that further action is required by the Licensee to address its financial position.

2.2.2.5. Key issues relating to governance include; challenges regarding triangulation of data; insufficient oversight and controls relating to workforce and resource management; capability and capacity (including grip and control) being weaker than it should be; and, a failure to make decisions and properly challenge decisions that are made. Furthermore, the process by which the Financial Year 2024/25 Plan was agreed by the Board highlighted significant concerns regarding the robustness of the plan.

2.2.3. In light of these matters and other available and relevant evidence, NHS England is satisfied that the Board is failing to secure compliance with the Licensee's licence conditions and failing properly to take steps to reduce the risk of non-compliance. In those circumstances, NHS England is satisfied that the governance of the Licensee is such that the Licensee is failing and will fail to comply with the conditions of its licence.

2.2.4. 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 condition

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

The requirements of the proposed additional licence condition 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: 4 March 2025

Signed:

A handwritten signature in black ink that reads 'Louise Shepherd'.

Louise Shepherd, CBE.

Regional Director, North West Region

Chair of the Regional Support Group

NHS England