

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

TO:

The Hillingdon Hospitals NHS Foundation Trust (“**the Licensee**”)
Pield Heath Road
Uxbridge
UB8 3NN

DECISION:

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS Improvement 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”).

In this notice, “NHS Improvement” means Monitor.

THE LICENCE IS AMENDED AS FOLLOWS:

After Condition FT4 (NHS Foundation Trust 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 the issues specified in paragraph 2; and
- b) comply with any enforcement undertakings accepted, or discretionary requirements imposed, by Monitor in relation to these issues.

2) The issues referred to in paragraph 1 are:

- a) the failure of the trust’s systems and processes for infection control, in relation to Covid-19;
- b) other quality issues at the trust as identified in CQC inspections and reports;
- c) the trust’s continued poor A&E waiting time performance;
- d) the financial situation at the trust, including a worsening trend in financial performance and the scale of its underlying deficit

- e) 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 Improvement anticipates that the effect of imposing the additional condition will be as set out in paragraph below in the section headed 'Grounds'.

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

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

GROUND(S)

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. NHS Improvement 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 FT4.5(a), (b), (d) and (f) and FT4.7.

2.2. Need for action:

2.2.1. The Licensee has not delivered the A&E standard since June 2016. Despite having received considerable external support, it has lacked the leadership capacity to build the learnings from external parties into the Trust's business as usual and sustain the improvements.

2.2.2. The Licensee's full-year financial outturns have deteriorated year-on-year since 2017/18, and there remains a significant risk to the delivery of an improved outturn in 2020/21. Approximately 59% of the Trust's 2020/21 CIP programme was rated as 'high risk' in July 2020.

2.2.3. The CQC published a report on 24 July 2018 following a comprehensive inspection between March and April 2018. The overall rating was 'Requires Improvement', with the Licensee's main site, Hillingdon Hospital, rated as 'inadequate' overall. Although there has been progress, as at July 2020, NHS Improvement, the CQC and other system partners have significant concerns

about the Trust's quality of care in many of the same areas identified by the CQC in 2018, including:

- (a) high infection rates and the management of infection prevention and control across the Trust, in particular poor screening for MRSA, Clostridium Difficile and Covid-19;
- (b) the condition of the Trust's estate, which continues to be one of the worst in the country;
- (c) the visibility of clinical leadership, poor levels of medical engagement and weak quality governance and
- (d) general fragility across many clinical services due to staff vacancies and service capacity.

2.2.4. In January 2019 Deloitte issued 23 recommendations following a review of the Trust's corporate governance arrangements. At July 2020 only nine of these recommendations had been fully completed.

2.2.5. In July 2020, in the context of the continuing outbreak of Covid-19 in England, the Trust closed Hillingdon Hospital to emergency ambulances and emergency admissions following an incident resulting in a large number of staff being required to self-isolate and a number of those staff testing positive for Covid-19. The incident resulted from a serious failure of the Trust's system and processes for infection control.

2.2.6. On 4-5 August 2020, the CQC undertook an inspection at Hillingdon Hospital, as a result of which the CQC was not assured that the Licensee had:

- a) put in place clear and effective governance arrangements in relation to infection, prevention and control at the Hospital;
- b) sufficiently identified, mitigated or managed risks to the health and safety of service users receiving care and treatment at the Hospital taking into account the Covid-19 pandemic; and
- c) sufficiently identified, mitigated or managed the risks posed by Covid-19 as staff were not adhering to IPC policies and guidance.

The CQC accordingly issued a notice under section 31 of the Health and Social Care Act 2008, imposing conditions on the trust's registration, in connection with the various failures to manage Covid-19 infection risks.

2.2.7. In light of these matters and other available and relevant evidence, NHS Improvement 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 Improvement 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.

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

3. Appropriateness of imposition of additional licence condition

In considering the appropriateness of imposing the additional condition specified above, NHS Improvement has taken into account its Enforcement Guidance.

The requirements of the additional licence condition are 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; and*
- 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 Improvement. This could include requiring the Licensee to remove one or more of its directors and/or appoint one or more interim directors.

NHS IMPROVEMENT

Dated: 8th September 2020

Signed:

A handwritten signature in black ink, appearing to read 'A. Pritchard', written in a cursive style.

Amanda Pritchard,

Chief Operating Officer of NHS England and Chief Executive of NHS Improvement