

## NOTICE OF MODIFICATION TO THE ADDITIONAL LICENCE CONDITION

### LICENSEE:

Kettering General Hospital NHS Foundation Trust (the Licensee)  
Rothwell Road  
Kettering  
Northants  
NN16 8UZ

### DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS Improvement has modified the additional licence condition imposed on the Licensee on 24 April 2013 (as modified on 3 April 2014 and 30 April 2015) so that it now reads as specified below. NHS Improvement has made this modification pursuant to its power under section 111(4) of the Health and Social Care Act 2012 (the Act).

Any reference to "NHS Improvement" in this notice is to be taken as a reference to Monitor.

### THE LICENCE HAS BEEN MODIFIED AS FOLLOWS:

After Condition FT4, insert:

#### ***"Condition FT5 – Additional governance requirements***

*The Licensee must ensure that it has in place board and management capacity and capability sufficient to ensure that it is able to fully implement all actions contained within:*

- (a) the Enforcement Undertakings dated 3 April 2014 except for undertakings 1 and 3;*
- (b) the Enforcement Undertakings dated 30 April 2015; and*
- (c) the Enforcement Undertakings dated 19 September 2016*

*until such time as all of those Enforcement Undertakings have been fully complied with".*

### ANTICIPATED EFFECT OF MODIFYING THE ADDITIONAL CONDITION:

NHS Improvement anticipates that the effect of modifying the additional condition will be as set out below under the heading 'Need for action' in the section below headed 'Grounds'.

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

None.

### GROUNDNS

#### 1. Licence

The Licensee is the holder of a licence granted under section 87 of the Act which includes an additional licence condition imposed under section 111 of the Act.

2. Power to modify 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 the conditions of its Licence including the additional licence condition imposed under section 111 of the Act, and specifically conditions: FT4(2); FT4(5)(a), (b), (c), (e), (f); FT4(6)(c); and FT4(7).

2.2. Need for action

NHS Improvement considers that the modification of the condition, as specified above, is appropriate for reducing the risk of ongoing non-compliance identified above.

3. Appropriateness of modification of additional licence condition

The modification reflects that new Enforcement Undertakings were accepted from the Licensee on 19 September 2016. In considering the appropriateness of modifying the additional licence condition, NHS Improvement has taken into account the matters set out in its Enforcement Guidance.

**THE REQUIREMENTS OF THE MODIFIED ADDITIONAL LICENCE CONDITION ARE WITHOUT PREJUDICE TO (i) ANY ENFORCEMENT UNDERTAKINGS GIVEN BY THE LICENSEE PURSUANT TO SECTION 106 OF THE ACT (ii) ANY DISCRETIONARY REQUIREMENTS IMPOSED ON THE LICENSEE PURSUANT TO SECTION 105 OF THE ACT AND (iii) 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 MODIFIED ADDITIONAL LICENCE CONDITION WILL RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY NHS IMPROVEMENT. 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. NHS IMPROVEMENT IS ALSO ABLE TO TAKE ACTION UNDER SECTION 89 TO REVOKE THE LICENSEE'S LICENCE.**

**Signed on behalf of NHS Improvement**

Name: Dale Bywater

Position: EMRD

Signature: D. Bywater

Date: 19/9/16