

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

**TO:**

King's College Hospital NHS Foundation Trust ("the Licensee")  
Denmark Hill  
London  
SE5 9RS

**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 Licensee's serious financial position, continued financial decline and lack of financial control;
  - b) the outstanding financial governance concerns following the NHS Improvement investigation in relation to Windsor Walk and the Critical Care Unit; and
  - c) 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 2.27 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. License

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 was put into enhanced oversight in April 2017. Enforcement undertakings in relation to financial governance and its planned deficit of £38.8m for 2017/18 were accepted by NHS Improvement in July 2017. These undertakings were aligned to enhanced oversight requirements.

2.2.2. The Licensee did not accept its Control Total for 2017/18. NHS Improvement and the Licensee agreed a budget deficit of £38.8m in May 2017. The Licensee subsequently submitted a formal Q2 reforecast of £70.6m deficit but on 5 December informed NHS Improvement that it is forecasting a £92.2m year end deficit, £53.4m adverse to the Licensee's original £38.8m planned deficit.

2.2.3. At month 7 of the financial year 2017/18, the Licensee reported a deficit of £62.1m, a £31.5m adverse variance to the plan agreed with NHS Improvement. The Licensee's current mid case projection at month 7 is for a £92.2m deficit, which is £21.6m adverse to the formal Q2 forecast.

2.2.4. For these reasons, NHS Improvement decided to place the Trust in Special Measures for financial reasons on 11 December 2017.

2.2.5. In addition, the Licensee has been subject to a recent NHS Improvement investigation in relation to Windsor Walk and its Critical Care Unit, which has

identified a number of financial governance failures, including a number of areas where NHS Improvement consider further action is appropriate.

2.2.6. 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.

2.2.7. 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: 18/12/2017

Signed:



Ben Dyson, Chair of the Provider Regulation Committee

NHS Improvement

