

NOTICE OF ADDITIONAL LICENCE CONDITION

LICENSEE:

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

DECISION

On the basis of the grounds set out below, taking into account representations by the Licensee and having regard to its Enforcement Guidance, Monitor has decided 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 IS AMENDED AS FOLLOWS:

After Condition FT4, insert:

“Additional Licence Condition 1 – Additional governance requirements:

1. The Licensee must ensure that it has in place sufficient and effective Board, management capacity and capability, as well as appropriate governance systems and processes, to enable it to—
 - a. address the issues specified in paragraph 2 effectively; and
 - b. comply with any enforcement undertaking accepted under the 2012 Act in connection with those issues.
2. The issues referred to in paragraph 1 are issues relating to the Licensee’s governance or operations, including those issues identified in any external review of its governance, or financial governance, which have caused or contributed to, or are causing or contributing to, or which may cause or contribute to breaches, or the risk of breach of conditions of the Licence.
3. For the purposes of paragraph 1, an issue is addressed effectively only if it is addressed within a reasonable timescale, including any applicable timescale proposed in any enforcement undertaking, or reasonably specified by Monitor.”

ANTICIPATED EFFECT OF THE ADDITIONAL CONDITION:

Monitor anticipates that the effect of imposing the additional condition would be as set out below under the heading(s) ‘Need for Action’ in the section below headed ‘Grounds’.

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.

FOUNDATIONS

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. Monitor is satisfied that the governance of the Licensee is such that the Licensee will fail to comply with the one or more of the following conditions of the Licensee's licence: CoS3(1),(a) and (b), CoS3(2)(c), FT4(5)(a), (d) and (f).

2.2. Need for action

Monitor believes the additional licence condition described above is required to secure that the breaches in question do not continue or recur.

a) Governance

- i) Monitor has concerns in respect of leadership and governance, evidenced by the following:
 - (1) The Licensee has reported a forecast deficit of £46.8m in 2015/16 and estimate that its final cash balance in 2015/16 to be £0.1m
 - (2) The Licensee plans to request funding from the Department of Health of £33.7m to be drawn from September 2015
 - (3) The Licensee does not have a credible plan to recover its financial position
 - (4) The Licensee's current financial plan will deliver a Continuity of Service Risk Rating (CoSRR) of 1
 - (5) At Q4 2015/2016 the Licensee has not confirmed the Declaration that it will maintain a CoSRR of at least 3 for the next 12 months
 - (6) The Licensee's financial governance arrangements are not sufficiently robust and it does not have the operational capacity to deliver the improvement required
 - (7) The Licensee has not acted with sufficient pace around planning to mitigate the under delivery of CIP targets in 2014/2015
 - (8) The Licensee has failed to set itself challenging cost savings targets, for example by forecasting CIP targets of only 2% for 2015/2016
 - (9) The Licensee's financial deterioration in 2014/15 and expected further financial deterioration in 2015/16 raises concerns about the Licensee's financial governance;

In the light of these matters, and the other available evidence, Monitor 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 breaches of those conditions. In these

circumstances, Monitor 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.

Monitor 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 this additional licence condition, Monitor has taken into account the matters set out in its Enforcement Guidance.

THE REQUIREMENTS OF THE ADDITIONAL LICENCE CONDITION ARE WITHOUT PREJUDICE TO (i) ANY DISCRETIONARY REQUIREMENTS IMPOSED UNDER SECTION 105 OF THE ACT, (ii) THE REQUIREMENTS OF ANY ENFORCEMENT UNDERTAKING GIVEN BY THE LICENSEE AND (ii) 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 ADDITIONAL LICENCE CONDITION WOULD RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. 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. MONITOR WOULD ALSO BE ABLE TO TAKE ACTION UNDER SECTION 89 TO REVOKE THE LICENSEE'S LICENCE.

MONITOR

Dated
2015

18 June 2015

Signed



Chair of the Provider Regulation Executive
Monitor