

NOTICE OF REQUIREMENT TO APPOINT AN INTERIM CHAIR

LICENSEE:

South East Coast Ambulance Service NHS Foundation Trust ("the Licensee")
The Horseshoe
Bolters Lane
Banstead
SM7 2AS

DECISION:

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, Monitor has decided to require the Licensee to appoint an interim chair as specified below, pursuant to its powers under section 111(5) of the Health and Social Care Act 2012 ("the Act").

REQUIREMENTS:

The Licensee must appoint the person specified by Monitor as the interim chair of the Licensee, with effect from a date to be agreed by Monitor and on such terms and conditions as Monitor may approve.

GROUND:

1. Licence

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

2. Power to require appointment of interim chair

Enforcement action to date

2.1. Monitor accepted enforcement undertakings from the Licensee under section 106 of the Act on 23 October 2015. Monitor imposed an additional licence condition ("the additional condition") on the Licensee under section 111 of the Act on 23 October 2015.

2.2. Paragraph 1 of the additional condition requires the Licensee to ensure that it has in place:
(a) an effectively functioning board and board committees;
(b) sufficient and effective board, management and clinical leadership capacity and capability; and
(c) appropriate governance systems and arrangements,

to enable it to address the issues specified in paragraph 2 of the additional condition.

2.3. The issues specified in paragraph 2 of the additional condition are:

(a) the failure in governance of the Licensee that led to the enforcement undertakings

- accepted by Monitor on 23 October 2015; and
- (b) 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.

The Forensic Review

- 2.4. The Forensic Review ("the Review") commissioned by the Licensee pursuant to paragraph 1.3 of the enforcement undertakings of 23 October 2015 has identified a number of concerns. In particular–
- (a) there were a number of fundamental failings in governance at the Licensee which resulted in the implementation of a high risk and sensitive project without adequate clinical assessment or appraisal by the Board, Commissioners or the NHS 111 service;
 - (b) the Executive Directors' failure to disclose details of the project to the rest of the Board or its Committees in a meaningful way was a serious breach of executive accountability;
 - (c) the Non-Executive Directors missed opportunities to probe for details of the project;
 - (d) the governance arrangements around the working group that led the project were inadequate;
 - (e) at the time of the project, the Board's effectiveness was impacted by a number of factors including a non-unitary Board and a lack of scrutiny;
 - (f) there was a lack of clarity over clinical accountabilities in relation to the Pilot, in particular between the Director of Clinical Operations and the Medical Director; and
 - (g) there was evidence that board and committee papers lacked clarity on crucial points, with some papers arriving late or even after the event.

Chair

- 2.5. The chair of the Licensee, Tony Thorne, has notified the Licensee and Monitor of his intention to resign. A permanent replacement has not yet been identified.

Breach of the additional condition and need for action

- 2.6. These matters demonstrate that the Licensee does not have in place sufficient and effective board, management and clinical leadership capacity and capability as required by the additional condition.
- 2.7. Monitor is therefore satisfied that the Licensee is breaching the additional licence condition.
- 2.8. Monitor considers that in light of this breach and having regard to the requirements of the Licensee's enforcement undertakings ("enforcement requirements"), and the issues identified in the additional condition, there is an urgent need to appoint an interim chair.
- 2.9. Monitor also considers that the person appointed as interim chair must be an individual with the skills and experience necessary to ensure that the Licensee complies with those enforcement requirements, addresses those issues and takes the steps appropriate to secure compliance with the Licensee's licence.

3. Appropriateness of Requirement

In considering the appropriateness of the requirement proposed in this case, Monitor has taken into account the representations made by the Licensee and its Enforcement Guidance.

THE REQUIREMENTS SET OUT IN THIS NOTICE ARE WITHOUT PREJUDICE TO:

- (i) THE REQUIREMENTS OF THE ADDITIONAL LICENCE CONDITION;
- (ii) THE REQUIREMENTS OF ANY ENFORCEMENT UNDERTAKING ACCEPTED BY MONITOR;
- (iii) ANY ACTION WHICH MONITOR MAY CONSIDER APPROPRIATE IN RESPONSE TO A FURTHER BREACH OF THE ADDITIONAL LICENCE CONDITION; AND
- (iv) THE REQUIREMENT ON THE LICENSEE TO ENSURE THAT IT IS COMPLIANT WITH THE OTHER CONDITIONS OF ITS LICENCE INCLUDING THOSE RELATING TO QUALITY OF CARE.

IF THE LICENSEE OR ANY OTHER PERSON FAILS TO COMPLY WITH THIS NOTICE, MONITOR WOULD BE ABLE TO DO ONE OR MORE OF THE THINGS WHICH IT COULD REQUIRE THE LICENSEE TO DO UNDER SECTION 111(5) OF THE ACT. THIS COULD INCLUDE APPOINTING THE INTERIM CHAIR, OR REMOVING ONE OR MORE OF THE OTHER DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS.

MONITOR

Dated 14th March 2016

Signed



Adrian Masters
Chair of the Provider Regulation Executive committee

