

NOTICE OF MODIFICATION OF AN ADDITIONAL LICENCE CONDITION

LICENSEE:

St George's University Hospital NHS Foundation Trust ("the Licensee")
Blackshaw Road
Tooting
London
SW17 0QT

DECISION

On the basis of the grounds set out below, and having had regard to its Enforcement Guidance, NHS Improvement has decided to modify the additional licence condition imposed on the Licensee on 29 July 2015, as specified below. NHS Improvement makes this modification pursuant to its powers under section 111(4) of the Health and Social Care Act 2012 ("the Act"). In this notice, "NHS Improvement" means Monitor.

THE LICENCE IS AMENDED AS FOLLOWS

In Additional Licence Condition 1 (additional governance requirements), for paragraph 2 (issues to be addressed) substitute the following paragraph:

- "2. The issues referred to in paragraph 1 are:
- a. the issues described in the section 2.2 'Need for Action' below;
 - b. the issues identified by the Care Quality Commission report published on 1 November 2016;
 - c. the issues connected with the Licensee's failure to confirm various governance declarations for Quarter 1 of the financial year 2016/17; and
 - d. any other issues relating to the Licensee's governance or operations, which have caused or contributed to, or are causing or contributing to, or which will cause or contribute to breaches, or the risk of breach of conditions of the Licensee's licence."

ANTICIPATED EFFECT OF THE ADDITIONAL CONDITION:

NHS Improvement 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 modification would be required to the Licensee's licence.

GROUND

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

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 following conditions of the Licensee's licence: FT4(5)(a) to (f) and (h), FT4(6) and (7).

2.2. Need for action:

2.2.1. The additional licence condition was imposed in July 2015 in relation to the Licensee's financial governance issues.

2.2.2. The Care Quality Commission ("CQC") inspected the Licensee's hospital at Tooting, and four community services provided by the trust, from 21 to 23 June 2016, and carried out unannounced inspections on 2, 7 and 11 July 2016 and found the Licensee to be "inadequate" overall in its report, published on 1 November 2016. The report highlights a number of issues including the following:

- (a) Unsafe and unfit premises. The CQC highlighted failings of infrastructure at the trust relating to lack of maintenance and capital investment. The state of the electrical systems, heating and water were considered to pose an unsafe environment to patients.
- (b) Lack of formal mental capacity assessments. CQC noted that trust did not have effective systems, checks or regular audits in place to ensure that mental capacity assessment took place. In addition some interventions, e.g. around the use of bed rails, were not been documented in patient medical records.
- (c) Ineffective design and operation of governance arrangements in identifying and mitigating risks to patients. This includes specific concerns around the management of the data quality systems around RTT that have led to the trust not reporting this standard.
- (d) Risks to the delivery of high quality care are not being systematically identified, analysed and mitigated.
- (e) Lack of accountability of staff for management of specific risk.
- (f) Lack of processes to provide assurance on the quality of care.
- (g) A number of processes including delays of investigations into Serious Incidents ("SI") were noted.
- (h) Data used in reporting and performance management is not robust, in particular with RTT data. In addition, it was noted that the trust did not keep records of activity data and outcome measures for the community end of life care service.
- (i) Lack of suitable arrangements to ensure directors are fit and proper. The trust was not able to evidence the fit and proper person documentation for a number of individuals.

2.2.3. At Q1 2016/17 the Licensee was unable to confirm compliance with the following governance declarations:

- (a) For finance, that: the board anticipates that the trust will continue to maintain a financial sustainability risk rating of at least 3 over the next 12 months.
- (b) For governance, that: the board is satisfied that plans in place are sufficient to ensure ongoing compliance with all existing targets (after the application of thresholds) as set out in Appendix A of the Risk Assessment Framework; and a commitment to comply with all known targets going forwards.
- (c) The board confirms that there are no matters arising in the quarter requiring an exception report to NHS Improvement (per the Risk Assessment Framework, Table 3) which have not already been reported.

2.2.4. In light of these matters, and the other available evidence, NHS Improvement is satisfied that the Board is failing to secure compliance with the Licensee's licence conditions in relation to governance, particularly quality governance, and failing properly to take steps to reduce the risk of non-compliance.

2.2.5. NHS Improvement considers that the modification specified above would be 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, NHS Improvement has taken into account the matters set out in its Enforcement Guidance.

THE REQUIREMENTS OF THIS NOTICE ARE WITHOUT PREJUDICE TO (i) ANY DISCRETIONARY REQUIREMENT IMPOSED UNDER SECTION 105 OF THE ACT, (ii) THE REQUIREMENTS OF ANY ENFORCEMENT UNDERTAKING GIVEN BY THE LICENSEE 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 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 THEIR 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 WOULD ALSO BE ABLE TO TAKE ACTION UNDER SECTION 89 TO REVOKE THE LICENSEE'S LICENCE.

NHS IMPROVEMENT

Dated: 1 November 2016

Signed:

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

Ben Dyson
Chair of the Provider Regulation Committee
NHS Improvement