

NOTICE OF MODIFICATION OF THE ADDITIONAL LICENCE CONDITION

LICENSEE:

Stockport NHS Foundation Trust ("the Licensee")
Oak House
Stepping Hill Hospital
Poplar Grove
Stockport
Cheshire
SK2 7JE

PROPOSAL

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 4 August 2014 and first modified on 1 June 2015 so that it now reads as specified below. NHS Improvement proposes to make this modification pursuant to its power under section 111(4) of the Health and Social Care Act 2012 ("the Act").

In this document, "NHS Improvement" means Monitor.

THE LICENCE HAS BEEN MODIFIED AS FOLLOWS:

After Condition FT4, insert:

"Additional Licence Condition 1 – Additional governance requirements:

1. *The Licensee must ensure that it has in place -*
 - a) *an effectively functioning board and board committees;*
 - b) *sufficient capacity and capability to enable the Licensee to address the issues specified in paragraph (2) effectively and to comply with any discretionary requirements imposed or undertakings accepted under the 2012 Act in connection with those issues.*

2. *The issues referred to in paragraph (1) are –*
 - a) *the failure to take the action necessary to ensure compliance with the A&E 4 hour maximum waiting time standard on a sustainable basis;*
 - b) *the lack of a clear vision and strategy around which the Licensee's board can determine its focus and priorities;*
 - c) *the lack of a long term financial recovery plan demonstrating how the Licensee aims to return to a financial break even position and of a credible plan to deliver the required 2017/18 cost improvement programme;*
 - d) *the failure to ensure that the Licensee's board and its committees have effective oversight of quality, safety, finances and A&E performance;*

- e) *the failure to respond sufficiently and in a timely manner to concerns identified by the CQC in its inspection of January 2016; and*
- f) *any other issues relating to the operation of the Licensee's board and its other governance arrangements, including those identified in any independent assessment of its governance arrangements, that have caused or contributed to, or are causing or contributing to, or will cause or contribute to, the breaches, or the risk of breach, of the conditions of the Licensee's licence."*

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.

GROUND(S)

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, specifically conditions: CoS3(1); FT4(2); FT4(4); FT4(5)(a) to (g); FT4(6); and FT4(7).

2.2. In particular:

2.2.1. The Licensee breached the A&E 4 hour waiting time standard for every month since May 2015 and has been subject to regulatory enforcement action since April 2013 regarding its A&E performance.

2.2.2. The findings of an investigation carried out by NHS Improvement in July 2017 indicated the following concerns:

2.2.2.1. the lack of a clear vision and strategy around which the Licensee's board can determine its focus and priorities;

2.2.2.2. the lack of a long term financial recovery plan demonstrating how the Licensee will return to a breakeven position, and of a credible plan to deliver the required 2017/18 cost improvement programme;

2.2.2.3. the failure to ensure that the Licensee's board and its committees are receiving appropriate information on quality and safety, A&E performance and finances; and

2.2.2.4. the failure to align action plans relating to emergency care improvement and ensure adequate Board oversight of such plans.

2.2.3. The Licensee failed to respond adequately to the findings of a CQC inspection in January 2016.

2.3. Need for action

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

3. Appropriateness of proposed modification of additional licence condition

The modification reflects the findings of an investigation carried out by NHS Improvement in July 2017. 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 WOULD 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.

NHS IMPROVEMENT

Dated 15/12/2017

Signed



BEN DYSON

Chair of the Provider Regulation Committee

NHS Improvement