

## NOTICE OF IMPOSITION OF ADDITIONAL LICENCE CONDITION

### LICENSEE:

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

### BACKGROUND: PREVIOUS AND CURRENT REGULATORY ACTION

Monitor accepted undertakings under section 106 of the Health and Social Care Act 2012 ("the Act") from the Licensee on 24 April 2013, having had reasonable grounds to suspect that the Licensee had provided and was providing health care services for the purposes of the NHS in breach of the conditions of its licence set out in those undertakings. The Licensee did not fully deliver the commitments it made in those undertakings. Monitor is now taking further regulatory action in relation to the Licensee in the form of the imposition of the additional licence condition set out in this notice and by imposing discretionary requirements under section 105 of the Act (together the "Current Regulatory Action") for the reasons set out in this Notice and the notice relating to those discretionary requirements. For the avoidance of doubt, the Current Regulatory Action supersedes the undertakings that were agreed on 24 April 2013.

### DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, Monitor is imposing the additional licence condition specified below on the Licensee pursuant to its powers under section 111 of the Act.

### THE LICENCE WILL BE AMENDED 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 enforcement undertakings accepted under the 2012 Act in connection with those issues.*
2. *The issues referred to in paragraph (1) are –*
  - a) *the concerns regarding the Licensee's board effectiveness and governance arising out of the Deloitte Independent Review of Governance Arrangements dated 12 May 2014;*
  - b) *the failure to take the action necessary to ensure compliance with the A&E 4 hour maximum waiting time target on a sustainable basis;*

- c) *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 a breach, of the conditions of the Licensee's licence.*

**ANTICIPATED EFFECT OF THE ADDITIONAL CONDITION:**

Monitor anticipates that the effect of imposing the additional condition will 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.

**GROUND(S)**

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 is failing and will fail to comply with one or more of the following conditions of the Licensee's licence: FT4(2); FT4(4); FT4(5)(a), (b), (c), (e), (f) and (g); FT4(6); and FT4(7).

2.2 Need for action

2.2.1 The Licensee breached the A&E 4 hour waiting time target in every quarter in 2012/13 and 2013/14.

2.2.2 The findings of an independent review of the Licensee's governance arrangements by Deloitte dated 12 May 2014 indicate concerns centred around four main themes: the need to respond effectively and on a timely basis to identified risks; the need to develop a clear strategy and communicate this effectively to stakeholders; the need to clarify roles, responsibilities and accountabilities including at Board level; and the need to develop an appropriate Committee structure. In addition, a number of the concerns mirror concerns raised in a KPMG review of Board effectiveness and risk management dated 31 January 2013.

2.2.3 The Licensee's failure to address A&E target failures on a timely and sustainable basis, along with the associated governance failings were a key part of the reason for Monitor taking formal regulatory action in relation to the Licensee in January 2013 and the Licensee has still not yet fully addressed these issues.

2.2.4 The Licensee has not fully delivered the undertakings that Monitor accepted from the Licensee on 24 April 2013.

2.2.5 In the light of these matters and 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 non-compliance.

2.2.6 Monitor considers that the imposition of the condition specified above is appropriate for reducing the non-compliance identified above.

### 3. Appropriateness of Imposition of Additional Licence Condition

In considering the appropriateness of imposing the additional 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) THE REQUIREMENTS OF ANY DISCRETIONARY REQUIREMENTS IMPOSED BY MONITOR; (ii) 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 THIS 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 ~~4 AUGUST~~ 2014

Signed

A handwritten signature in black ink, appearing to be 'R.B. Smith', written over a horizontal line.