

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Medway NHS Foundation Trust ("the Licensee")
Medway Maritime Hospital
Windmill Road
Gillingham
Kent
ME7 5NY

DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, Monitor has decided to accept from the Licensee the enforcement undertakings specified below pursuant to its powers under section 106 of the Health and Social Care Act 2012 ("the Act").

GROUND

1. Licence

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

2. Breaches

2.1. Monitor has reasonable grounds to suspect that the Licensee has provided and is providing healthcare services for the purposes of the NHS in breach of the following conditions of its licence: FT4(4)(a)-(c); FT4(5)(a),(b),(c) and (e); FT4(6)(a)-(f); and FT4(7).

2.2. In particular:

2.2.1. The Licensee fell within the scope of a review of the quality of care and treatment it provided conducted by Professor Sir Bruce Keogh, NHS England Medical Director, which commenced in February 2013 ("the Keogh Review"). The key lines of enquiry of the Keogh Review were governance and leadership; clinical and operational effectiveness; patient experience and workforce and safety. In addition, the Keogh Review considered the following key lines of enquiry specific to the Licensee: diabetes; and quality care strategy and implementation. The detailed findings of the Keogh Review identify areas of outstanding concerns.

2.2.2. The concerns identified in relation to the Licensee by the Keogh Review demonstrate a failure of governance arrangements in particular, but not limited to, a failure by the Licensee to -

- (a) ensure effective functioning of, and oversight by, the Board as specified in FT4(4); and
- (b) to establish and effectively implement systems and/or processes to ensure compliance with -
 - (i) the Licensee's duty to operate efficiently, economically and effectively;
 - (ii) health care standards binding on the Licensee including but not restricted to standards specified by the Secretary of State, the Care Quality Commission, the NHS Commissioning Board and statutory regulators of health care professions; and
 - (iii) the matters relating to quality of care specified in FT4(6).

2.3. Need for action

Monitor believes that the action which the Licensee has undertaken to take pursuant to these undertakings is action to secure that the breaches in question do not continue or recur.

3. Appropriateness of Undertakings

In considering the appropriateness of accepting in this case the undertakings set out below, Monitor has taken into account the matters set out in its Enforcement Guidance.

UNDERTAKINGS

Monitor has agreed to accept and the Licensee has agreed to give the following undertakings, pursuant to section 106 of the Act:

1. Keogh Review Plan

- 1.1. The Licensee will implement effectively all of the actions in the action plan which it has developed to address the recommendations and associated actions in the Keogh Review dated 16th July 2013 ("the Keogh Review Plan") in accordance with timescales specified in that Plan, unless otherwise agreed by Monitor.
- 1.2. The Licensee will report to Monitor on the implementation of the Keogh Review Plan, as required and in particular monthly, unless Monitor stipulates otherwise.
- 1.3. The Licensee will provide to Monitor, should it so request, assurance on the implementation of the Keogh Review Plan or any part thereof, in such form and at such time as may be specified in the request.

2. Quality Governance Review

- 2.1. The Licensee will commission an independent review of quality governance arrangements (the "Quality Governance Review") at the Licensee from a source to

be agreed by Monitor and by a date agreed with Monitor . The terms of reference for the Quality Governance Review will be agreed with Monitor and a final report will be provided to Monitor, as a joint recipient of the report, in each case by a date agreed with Monitor.

- 2.2. The Licensee will, unless otherwise agreed with Monitor, implement effectively all of the recommendations and associated actions in the Quality Governance Review, in accordance with such timescales as may be agreed with Monitor.
- 2.3. The Licensee will by a date to be agreed with Monitor obtain external assurance on the effective and timely implementation of the recommendations and associated actions in the Quality Governance Review by commissioning a follow up review from a source to be agreed with Monitor. The terms of reference for the external assurance will be agreed with Monitor and a final report will be provided to Monitor, as a joint recipient of the report, in each case by a date agreed with Monitor.
- 2.4. The Licensee will implement effectively any recommendations and associated actions in the above external assurance review within the timescales set out in the external assurance review.
- 2.5. The Licensee will report to Monitor on the implementation of the recommendations and associated actions in the Quality Governance Review as required and in particular monthly unless Monitor stipulates otherwise.

3. General

- 3.1. The Licensee will implement sufficient programme management and governance arrangements to enable delivery of the recommendations and associated actions in the Keogh Review Plan and the Quality Governance Review.
- 3.2. Such programme management and governance arrangements will enable the Board to:
 - 3.2.1. obtain a clear oversight over the progress in delivering the plans;
 - 3.2.2. obtain an understanding of any risks to the successful achievement of the plans and ensure appropriate mitigation of any such risks; and
 - 3.2.3. hold individuals to account for the delivery of the actions in the plans.
- 3.3. The Licensee shall attend meetings or, if Monitor stipulates, conference calls, during the currency of the undertakings detailed in this notice to discuss its progress in meeting those undertakings. These meetings shall take place once a month, unless Monitor stipulates otherwise, at a time and place to be specified by Monitor and with attendees specified by Monitor.

THE REQUIREMENTS IN THIS NOTICE ARE WITHOUT PREJUDICE TO THE REQUIREMENT ON THE LICENSEE TO COMPLY WITH THE CONDITIONS IN ITS LICENCE AND THE UNDERTAKINGS DATED 23RD APRIL 2013.

ANY FAILURE TO COMPLY WITH THE ABOVE UNDERTAKINGS WILL RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. THIS COULD INCLUDE THE IMPOSITION OF DISCRETIONARY REQUIREMENTS UNDER SECTION 105 OF THE ACT IN RESPECT OF THE BREACH IN RESPECT OF WHICH THE UNDERTAKINGS WERE GIVEN AND/OR REVOCATION OF THE LICENCE PURSUANT TO SECTION 89 OF THE ACT.

WHERE MONITOR IS SATISFIED THAT THE LICENSEE HAS GIVEN INACCURATE, MISLEADING OR INCOMPLETE INFORMATION IN RELATION TO THE UNDERTAKINGS: (i) MONITOR MAY TREAT THE LICENSEE AS HAVING FAILED TO COMPLY WITH THE UNDERTAKINGS; AND (ii) IF MONITOR DECIDES SO TO TREAT THE LICENSEE, MONITOR MUST BY NOTICE REVOKE ANY COMPLIANCE CERTIFICATE GIVEN TO THE LICENSEE IN RESPECT OF COMPLIANCE WITH THE RELEVANT UNDERTAKINGS.

LICENSEE

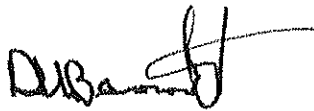


Signed (Chair of Licensee)

Dated:

14 August 2013.

MONITOR



Signed (Chair of relevant decision-making committee)

Dated: 14 August 2013