

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Stockport NHS Foundation Trust
Oak House
Stepping Hill Hospital
Poplar Grove
Stockport
Cheshire
SK2 7JE

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”).

GROUNDINGS

1. Licence

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

2. Breaches

2.1. Target Breaches

2.1.1. Monitor has reasonable grounds to suspect that the Licensee has provided and is providing health care services for the purposes of the NHS in breach of the following conditions of its licence: FT4(5)(a); FT4(5)(b); FT4(5)(c); FT4(5)(e); FT4(5)(f); FT4(5)(g); FT4(6)(b); FT4(6)(c) and FT4(6)(d).

2.1.2. In particular:

2.1.2.1. The Licensee breached its Accident and Emergency 4 hour waiting times target in Q1 and Q3 of 2011/12, Q1, Q2, Q3 and Q4 of 2012/13; and

2.1.2.2. these breaches by the Licensee demonstrate a failure of governance arrangements in particular, but not limited to, a failure by the Licensee to establish and effectively implement systems and/or processes (i) to ensure compliance with the Licensee’s duty to operate efficiently, economically and effectively and (ii) to ensure compliance with 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.

2.1.3. Need for action

Monitor believes that the action which the Licensee has undertaken to take pursuant to the undertaking recorded here will secure that the breach in question does not continue or recur.

2.2. Governance breaches

2.2.1. Monitor has reasonable grounds to suspect that the Licensee has provided and is providing health care services for the purposes of the NHS in breach of the following conditions of its licence: FT4(2); FT4(3)(a); FT4(3)(b); FT4(5)(a); FT4(5)(b); FT4(5)(c); FT4(5)(e); FT4(5)(f); FT4(5)(g); FT4(6)(c); FT4(6)(d); FT4(6)(f) and FT4(7).

2.2.2. In particular:

2.2.2.1. There are weaknesses in the Licensee's Board governance highlighted by the external review of Board effectiveness and risk management dated 31 January 2013; and

2.2.2.2. these breaches by the Licensee demonstrate a failure of governance arrangements.

2.2.3. Need for action

Monitor believes that the action which the Licensee has undertaken to take pursuant to the undertaking recorded here will secure that the breach in question does 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

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

1. Target breaches

1.1. The Licensee will prepare an overarching and comprehensive urgent care action plan ("the Urgent Care Plan") to achieve sustainable compliance with the 4 hour maximum waiting time Accident and Emergency target ("the A&E target") by the date agreed at the April progress review meeting between the Licensee and Monitor on 11 April 2013. The Urgent Care Plan will at a minimum:

1.1.1. include appropriate milestones for the delivery of the eight key objectives, that underpin delivery of the A&E trajectory, as discussed during the conference call between the Licensee and Monitor on 13 March 2013;

1.1.2. include those elements of the Licensee's Unscheduled Care Transformation Programme required to achieve sustainable compliance with the A&E target;

- 1.1.3. include metrics and KPIs to monitor delivery of the Urgent Care Plan;
- 1.1.4. incorporate all issues, findings, recommendations and associated actions arising from the reviews carried out by Jeremy Pease and the Emergency Care Intensive Support Team ("ECIST") between July 2011 to February 2013 and subsequently;
- 1.1.5. include a trajectory to compliance with the A&E target by the date agreed at the 11 April 2013 progress review meeting;
- 1.1.6. schedule all necessary actions for completion in a manner that will lead to conclusion of all actions by the date agreed at the 11 April 2013 progress review meeting; and
- 1.1.7. be reviewed and approved by the Licensee Board by 31 May 2013, following discussion with Monitor at the progress review meeting between the Licensee and Monitor on 11 April 2013.
- 1.2. The Licensee will provide to Monitor a copy of any external reports or reviews relating to the Urgent Care Plan completed during 2013 within a week of receiving them.
- 1.3. The Licensee is to fully deliver all actions in the Urgent Care Plan under the timescales set out in it.
- 1.4. The Licensee will report on the Urgent Care Plan as required by Monitor and in any event report weekly to Monitor its performance against the 4 hour A&E target until such time as compliance with the target is maintained for three consecutive quarters or Monitor stipulates otherwise.
- 1.5. The Licensee will obtain external assurance that the Urgent Care Plan has been delivered in full by a date to be agreed at the 11 April 2013 progress review meeting between the Licensee and Monitor from a source and a scope to be agreed with Monitor.
- 1.6. Without prejudice to the other undertakings the Licensee will take such additional steps as are necessary to ensure that it is able to meet the A&E target on a sustainable basis from a date to be agreed at the 11 April 2013 progress review meeting.
2. Board effectiveness and governance
 - 2.1. The Licensee will implement by 30 June 2013 the action plan, approved by the Board on 28 February 2013, to address all high, medium and low risk recommendations from the KPMG review of Board effectiveness and risk management dated 31 January 2013 ("the Governance Plan"). The Governance Plan will at a minimum include all appropriate milestones to monitor delivery.

2.2. The Licensee will report on the Governance Plan as required by Monitor and at a minimum on the delivery of key milestones monthly 5 working days in advance of the progress review meetings between the Licensee and Monitor unless Monitor stipulates otherwise.

2.3. The Licensee will:

2.3.1. commission an external review by 31 July 2013 from a source and with a scope to be agreed with Monitor to assess whether the recommendations required to be addressed in full by the Governance Plan have been addressed (“the Review”); and

2.3.2. obtain and provide to Monitor the Review by 30 September 2013.

3. Programme management and governance arrangements

3.1. The Licensee will implement sufficient programme management and governance arrangements to enable the delivery of all plans referred to in these undertakings.

4. Meetings

4.1. The Licensee shall attend meetings (or if Monitor stipulates conference calls) with Monitor 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 otherwise stipulates, at a time and place to be specified by Monitor and with attendees specified by Monitor.

THE UNDERTAKINGS SET OUT HEREARE WITHOUT PREJUDICE TO 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 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 UNDERTAKING WAS GIVEN AND/OR REVOCATION OF THE LICENCE UNDER SECTION 89 OF THE ACT.

WHERE MONITOR IS SATISFIED THAT THE LICENSEE HAS GIVEN INACCURATE, MISLEADING OR INCOMPLETE INFORMATION IN RELATION TO THE UNDERTAKING: (i) MONITOR MAY TREAT THE LICENSEE AS HAVING FAILED TO COMPLY WITH THE UNDERTAKING; 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 UNDERTAKING.

LICENSEE

Dated 17 April 2013

A handwritten signature in black ink that reads "Gillian Easson". The signature is written in a cursive style with a large initial 'G'.

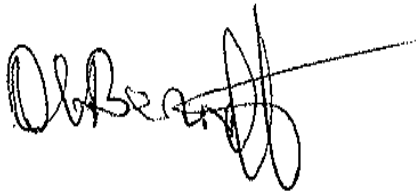
Signed (Chair of Licensee)

**Gillian Easson, Chairman
Stockport NHS Foundation Trust**

[Name of Signatory]

MONITOR

Dated 24 April 2013

A handwritten signature in black ink that appears to read "Al Beard". The signature is written in a cursive style with a large initial 'A' and a long horizontal stroke extending to the right.

Signed (Chair of relevant decision-making committee)

[Name of Signatory]