

NOTICE OF ADDITIONAL LICENCE CONDITION:

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, taking into account representations by the Licensee and having had regard to its Enforcement Guidance, Monitor has decided to impose the additional licence condition specified below on the Licensee pursuant to its powers under section 111 of the Health and Social Care Act 2012 ("the Act").

THE LICENCE IS AMENDED AS FOLLOWS:

After Condition FT4, insert:

"Additional Licence Condition 1 – Additional governance requirements:

1. The Licensee must ensure that it has in place sufficient and effective Board and management capacity and capability, as well as appropriate governance systems and processes, to enable it to:
 - a. address the issues specified in paragraph 2 effectively; and
 - b. comply with any discretionary requirement imposed or enforcement undertaking accepted under the 2012 Act in connection with those issues.

2. The issues referred to in paragraph 1 are:
 - a. the issues described in the section 2.2 'Need for Action' below
 - b. any other issues relating to the Licensee's governance or operations, that have caused or contributed to, or are causing or contributing to, or will cause or contribute to breaches, or the risk of breach of conditions of the Licensee's licence.

3. For the purposes of paragraphs 1, an issue is addressed effectively only if it is addressed within a reasonable timescale, including any applicable timescale proposed in any discretionary requirement or enforcement undertaking, or reasonably specified by Monitor."

ANTICIPATED EFFECT OF THE ADDITIONAL CONDITION:

Monitor 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 modifications would be required to the Licensee's licence.

GROUNDS:

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 will fail to comply with one or more of the following conditions of the Licensee's licence: CoS3(1), FT4(5)(a), (d) and (f) and FT4(7).

2.2. Need for action

2.2.1. The Licensee's 2014/15 financial position rapidly deteriorated during Q4, resulting in an unplanned deficit of £16.8m and a deficit forecast of £46.2m in 2015/16.

2.2.2. The Licensee plans to request funding from the Department of Health of approximately £52.2m.

2.2.3. At Q4 2014/15 the Licensee was unable to confirm compliance with the following governance declarations:

2.2.3.1. The board anticipates that the trust will continue to maintain a CoSRR of at least 3 over the next 12 months.

2.2.3.2. 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 (giving Monitor cause for concern about potential breaches of one or more of these targets in future which would require addressing as appropriate).

2.2.4. The Licensee does not as yet have a credible recovery plan to provide Monitor with assurance that it can return to a CoSRR3 or financial surplus or that it is financially sustainable and has not been able to articulate fully so far the key drivers and underlying reasons for the rapid deterioration in its financial position, albeit that it has recently commissioned external support to assist it in this.

2.2.5. The nature and speed of the financial deterioration in 2014/15 and the expected further financial deterioration in 2015/16, in the context of the matters set out above, raise concerns about the Licensee's governance including financial governance. In this context the Licensee will need to ensure amongst other matters that it has the capacity and capability to address the issues adequately and at pace, including ensuring the necessary initial stabilisation, extensive turnaround and a longer term strategy to achieve sustainability involving local health economy partners.

2.2.6. In the light of these matters, and the 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.

2.2.7. Monitor considers that the imposition of the condition 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, 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) 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 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: 29 July 2015

Signed:

A handwritten signature in black ink, appearing to read 'David Bennett', with a long horizontal stroke extending to the right.

David Bennett

Chair of the Provider Regulation Executive