

## **NOTICE OF IMPOSITION OF ADDITIONAL LICENCE CONDITION**

### **LICENSEE:**

Royal Surrey County Hospitals NHS Foundation Trust ("the Licensee")  
Royal Surrey County Hospital  
Trust Headquarters  
Egerton Road  
Guildford  
Surrey  
GU2 7XX

### **DECISION:**

On the basis of the grounds set out below and having had regard to its Enforcement Guidance, Monitor has imposed 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, management and clinical leadership 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 undertakings accepted under the Act in connection with those issues.
2. The issues referred to in paragraph 1 are:
  - a) the failures in governance of the Licensee that led to:
    - i) the failures to develop robust annual plans for 2015/16 and 2016/17 and mitigate significant risks to delivery of the 2015/16 plan,
    - ii) the serious deterioration in the Licensee's financial position, and
    - iii) the failures to deliver the A&E 4 hour waiting time and the cancer referral time standards,
  - b) any other issues relating to governance or operations that have caused or contributed to, or are causing or contributing to, or will cause or contribute to, the 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.

### **FOUNDATIONS:**

#### **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: FT4(2); FT4(5)(a) to (g); FT4(6); and CoS3(1) and (2)(c).

#### **2.2. Need for action**

2.2.1. The Licensee forecast a year end deficit for 2015/16 of £0.5m and a Financial Sustainability Risk Rating (FSRR) of 3, but delivered a deficit of £10.2m and an FSRR of 1. As a result, the Licensee has required £5.2m of unplanned distressed finance from the Department of Health in 2015/16.

2.2.2. The Licensee's draft annual plan for 2016/17 and initial forecasts contained unrealistic assumptions, which required a revised plan and a revised forecast deficit of £17m.

2.2.3. The Licensee has failed to achieve the A&E 4 hour waiting time standard each month, except one, since August 2015, and the actions by the Licensee to improve performance have not been effective.

2.2.4. The Licensee has failed to achieve:

- (a) the 62 day cancer standard in each month from July 2015 to March 2016:  
and
- (b) the 2 week cancer standard from May 2015 to December 2015.

2.2.5. The findings of Monitor's investigation into the Licensee indicate that:

- (a) in relation to financial management:
  - (i) there are material weaknesses in the Licensee's financial information;
  - (ii) key financial planning assumptions were not robust; and
  - (iii) effective financial management controls were not in place.
- (b) As a result of the weaknesses in financial management, the Licensee was unable to produce robust annual plans or accurately forecast risks to deliver.
- (c) In relation to operational management, the Licensee:
  - (i) does not have sufficient operational management information and analysis, and does not routinely consider key metrics,
  - (ii) has not acted promptly enough to address deteriorating operational performance, and
  - (iii) does not have adequate operational leadership and capacity at executive level.

- (d) In relation to board governance and leadership:
- (i) key operational and financial information was not subject to appropriate challenge by the Licensee's Board; and
  - (ii) the Board failed to take effective action to mitigate financial risks and control weaknesses in 2015/16.

2.2.6. The Licensee has only recently appointed a permanent chief executive and currently does not have a permanent Financial Director.

2.2.7. In the light of all 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.

2.2.8. 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 THIS NOTICE 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 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: 29 July 2016

Signed: 

Ben Dyson

Chair of Provider Regulation Executive