

## **NOTICE OF MODIFICATION TO THE ADDITIONAL LICENCE CONDITION**

### **LICENSEE:**

Norfolk and Norwich University Hospitals NHS Foundation Trust (“the Licensee”)  
Colney Lane  
Norwich  
NR4 7UY

### **DECISION**

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS Improvement has modified the additional licence condition imposed on the Licensee on 29 April 2015 so that it now reads as specified below. NHS Improvement has made this modification pursuant to its power under section 111(4) of the Health and Social Care Act 2012 (“the Act”). In this document, “NHS Improvement” means Monitor.

### **THE LICENCE HAS BEEN MODIFIED AS FOLLOWS:**

#### ***“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 and effective board, management and clinical leadership capacity and capability; and*
  - (c) *appropriate governance systems and processes**to enable it to successfully meet the undertakings set out at paragraph 4 of the Enforcement Undertakings agreed on 24 April 2015 and [paragraphs 1 to 6] of the Enforcement Undertakings agreed by the Licensee dated 8 September 2017.”*

### **ANTICIPATED EFFECT OF MODIFYING THE ADDITIONAL CONDITION:**

NHS Improvement anticipates that the effect of modifying the additional condition will be as set out below under the heading ‘Need for action’ in the section below headed ‘Grounds’.

### **INCIDENTAL OR CONSEQUENTIAL MODIFICATIONS REQUIRED AS A RESULT OF THE MODIFICATION OF THE ADDITIONAL CONDITION:**

*No incidental or consequential modifications would be required to the Licensee’s licence.*

### **GROUND**

#### 1. Licence

The Licensee is the holder of a licence granted under section 87 of the Act which includes an additional licence condition imposed under section 111 of the Act.

#### 2. Power to modify additional licence condition(s)

2.1. NHS Improvement is satisfied that the governance of the Licensee is such that the Licensee will continue to fail to comply with the conditions of its Licence including the additional licence condition imposed under section 111 of the Act, and specifically conditions: FT4(2); FT4(4)(b); FT4(5)(a); FT4(5)(b); FT4(5)(c); FT4(5)(d); FT4(5)(f); FT4(5)(g); FT4(5)(h), FT4(7), CoS3(1)(a) and CoS3(1)(b).

2.2. In particular:

2.2.1 There are issues regarding operational performance including with regards to A&E, cancer and RTT standards as described in the undertakings agreed on 8 September 2017.

2.2.2 There are concerns about board governance as described in the undertakings agreed on 24 April 2015.

2.3. The breaches by the Licensee detailed in 2.2 above 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 its duty to operate efficiently, economically and effectively (ii) to identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the conditions of its licence and (iii) to ensure the existence and effective operation of systems to ensure that it has in place personnel on its board, reporting to the board and within the rest of its organisation who are sufficient in number and appropriately qualified to ensure compliance with the conditions of its licence.

2.4. Need for action

NHS Improvement considers that the modification of the condition, as specified above, is appropriate for reducing the risk of ongoing non-compliance identified above.

### 3. Appropriateness of modification of additional licence condition

In considering the appropriateness of modifying the additional licence condition, NHS Improvement has taken into account the matters set out in its Enforcement Guidance.

The requirements of the modified additional licence condition are without prejudice to (i) any enforcement undertakings given by the Licensee pursuant to section 106 of the Act (ii) any discretionary requirements imposed on the licensee pursuant to section 105 of the Act and (iii) the requirement of 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 modified additional licence condition will render the Licensee liable to further formal action by NHS Improvement. 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. NHS Improvement is also able to take action under section 89 to revoke the Licensee's licence.

NHS Improvement

Dated 30.10.2017

Signed

A handwritten signature in black ink, appearing to be 'FS', written in a cursive style.

**Frances Shattock**

[Delivery and Improvement Director on behalf of the Midlands & East Regional Provider Support Group]  
NHS Improvement