

## Licensing Application Guidance



## **About Monitor**

Monitor is the sector regulator for health services in England. Our job is to protect and promote the interests of patients by ensuring that the whole sector works for their benefit.

For example, we make sure foundation hospitals, ambulance trusts and mental health and community care organisations are run well, so they can continue delivering good quality services for patients in the future. To do this, we work particularly closely with the Care Quality Commission, the quality and safety regulator. When it establishes that a foundation trust is failing to provide good quality care, we take remedial action to ensure the problem is fixed.

We also set prices for NHS-funded services, tackle anti-competitive practices that are against the interests of patients, help commissioners ensure essential local services continue if providers get into serious difficulty, and enable better integration of care so services are less fragmented and easier to access.

We carry out these functions mainly through the NHS provider licence. This has been issued so far to all foundation trusts. From 1 April 2014, all other providers of NHS health care services will be required to hold this licence unless they are exempt. This guidance explains how providers should assess if they need the licence and how to apply for it.

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# 1. Introduction

## Background

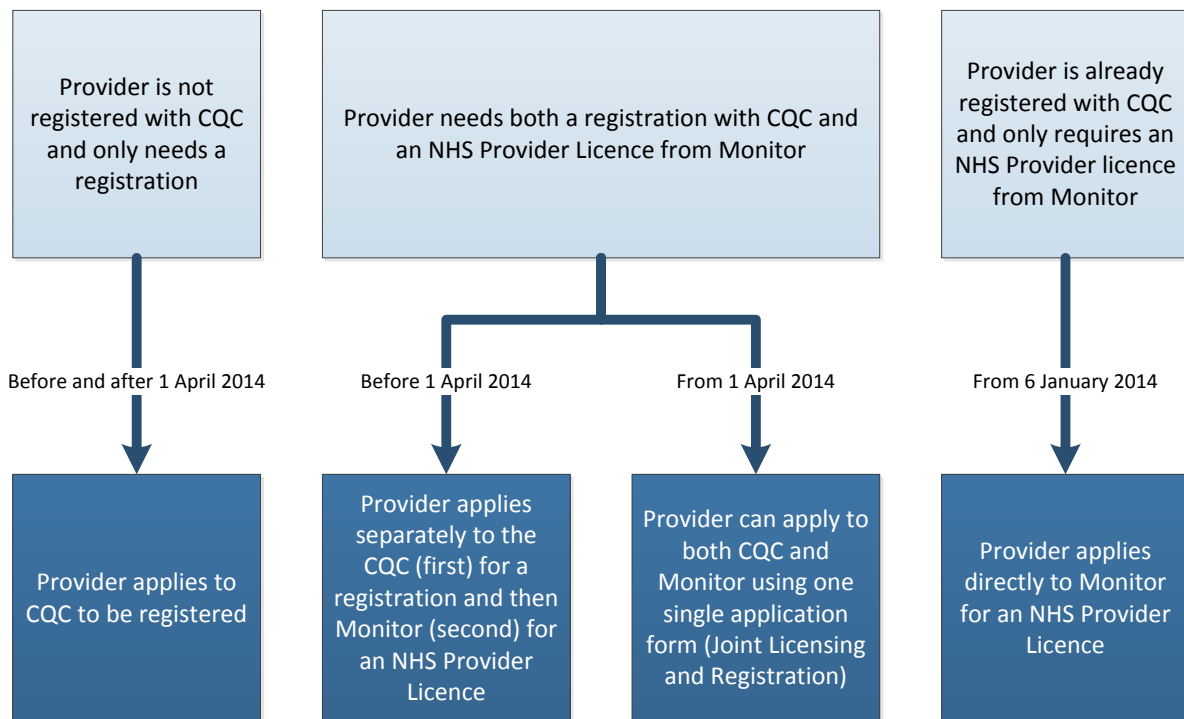
- 1.1. This guidance seeks to help providers by explaining:
  - how to work out whether you need to apply for a licence;
  - the criteria you must meet to be granted a licence;
  - how to apply for a licence and how long it will generally take us to review your application. This section also includes detailed explanations of questions on the online application form;
  - what will happen after you submit your application; and
  - the representations and appeals process if your application for a licence is unsuccessful.
- 1.2. All providers of NHS health care services must hold a licence from 1 April 2014, unless they are exempt. The Department of Health has published [this detailed guidance](#) on what it means to be a provider of NHS health care services and the licence exemptions (the Exemptions Guidance).
- 1.3. There are two licence criteria which applicants must meet in order to be granted a licence: “Criterion 1” is a requirement to be registered with the Care Quality Commission (CQC), which is the independent regulator of health and adult social care in England. “Criterion 2” is provider ‘fitness’. This refers to a test to be applied to persons involved in overseeing your organisation and is described in more detail below (paragraphs 4.41-4.44).
- 1.4. The main rules giving Monitor the powers to design and operate the licensing regime are set out in the Health and Social Care Act 2012 (the 2012 Act). The Department of Health has issued regulations regarding the licensing regime made under the 2012 Act, namely the National Health Service (Licence Exemptions, etc.) Regulations 2013 and the National Health Service (Approval of Licensing Criteria) Order 2013. Annex A includes links to these and other relevant documents, including those which describe the legal basis of our licensing regime.
- 1.5. The online application process opens on 6 January 2014. You currently do not need to pay a fee to apply for or obtain a licence.

## Application process

- 1.6. Licence applications are generally expected to be made online, via Monitor’s website. If you are unable to make an application online, please contact Monitor’s Enquiries team on 020 3747 0606; [enquiries@monitor.gov.uk](mailto:enquiries@monitor.gov.uk).

- 1.7. Where a provider is an organisation rather than an individual, you will be asked to designate a key contact who will be responsible for applying on Monitor’s website. For more information about the role of the key contact see paragraph 3.3 below.
- 1.8. You can apply for a licence from 6 January 2014 in order to ensure that you can hold the licence from 1 April 2014, if you will need one then, as that is the date from which the requirement to hold a licence begins. However we cannot make a formal decision and issue the licence until 1 April 2014.<sup>1</sup>

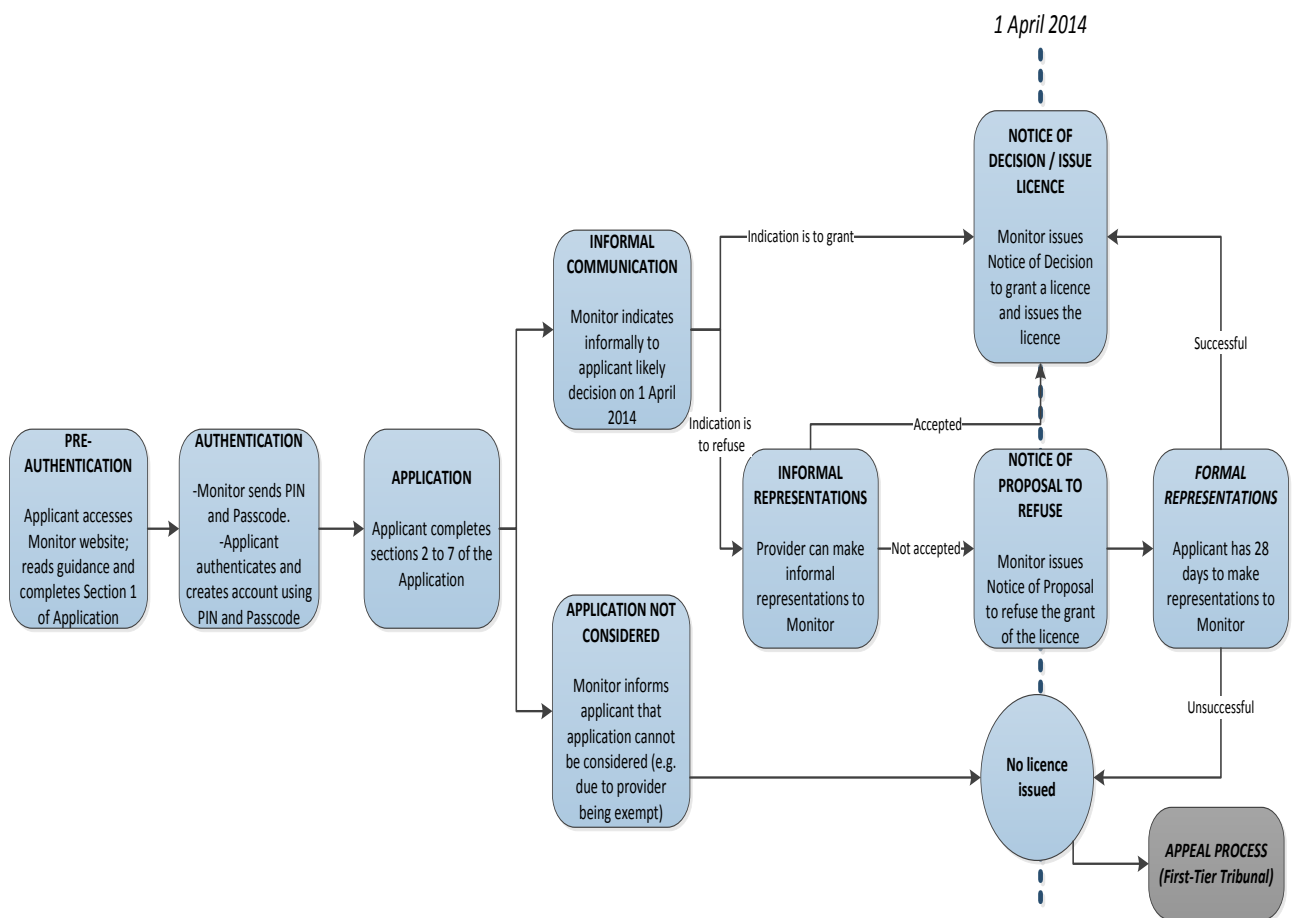
**Figure 1: Summary of the processes to apply for an NHS provider licence**



<sup>1</sup> Licensing of independent providers comes into effect on 1 April 2014 when section 87(2) of the 2012 Act comes into force. However, we can process applications made prior to 1 April 2014 in order to ensure that licences can be in place from that date if required.

## Applications made before 1 April 2014

Figure 2: Application process for applications made before 1 April 2014



- 1.9. If you make an application before 1 April 2014, we will aim to send you an informal communication indicating our likely decision within 20 working days of receiving a complete application, unless queries or concerns are raised which cannot be addressed in this time frame. If, on 1 April 2014, our decision is to grant a licence, you will receive a formal Notice of Decision and the licence will be issued. See Section 7 for further information about what happens after a licence is issued.
- 1.10. If we informally indicate that the application is likely to be refused, you will have 28 days to make informal representations. If, after considering these informal representations, we remain of the view that refusal would be appropriate, and decide formally on 1 April to refuse your application, then a Notice of Proposal to Refuse will be sent to you. You will then be able to make formal representations to us regarding that proposal and appeal if we confirm the decision not to grant a licence. Please see Section 8 for further details of the representations and appeals process.
- 1.11. In certain circumstances, for example if the application is incomplete or, based on the information you have provided, it appears to us that you are exempt from the

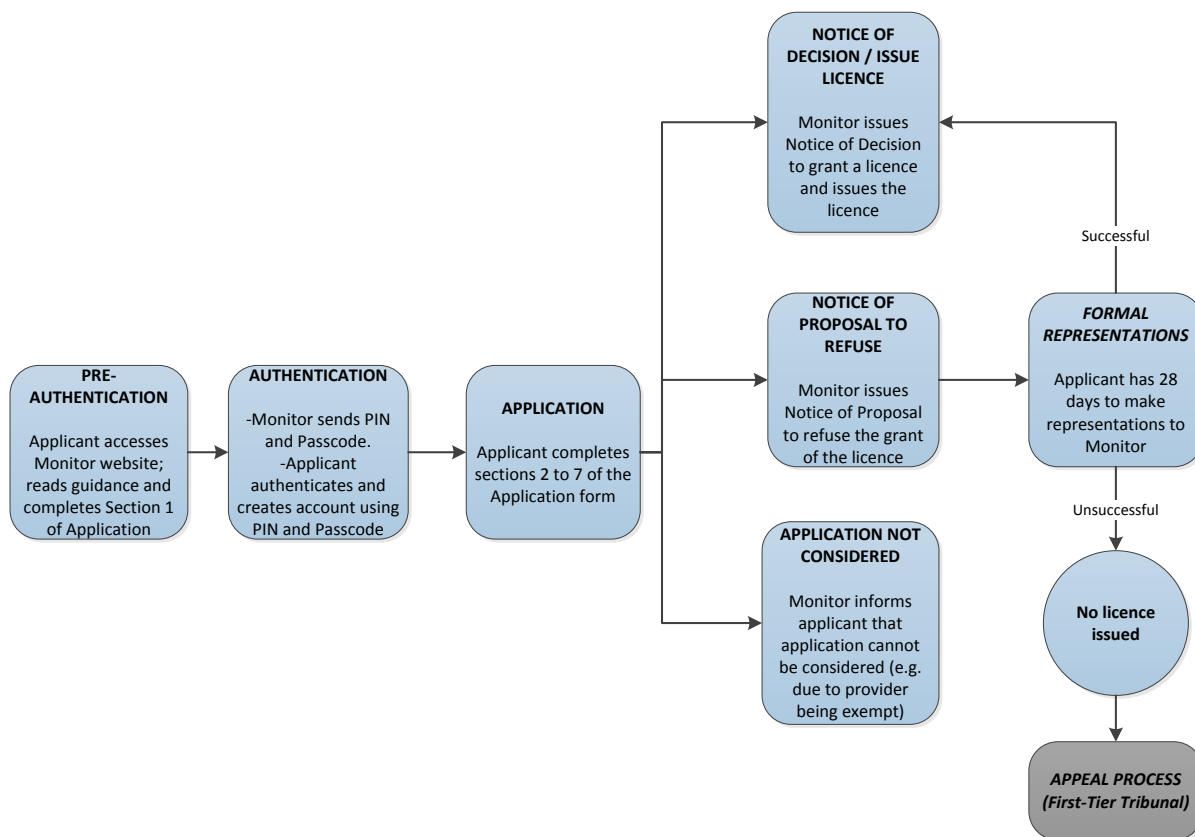
requirement to hold a licence, we will not be able to consider your application. Please see paragraphs 6.9-6.10 for further details.

1.12. If you need to apply for both a CQC registration and an NHS provider licence before 1 April 2014, you will first have to register with the CQC, and apply for an NHS provider licence after the CQC has confirmed your registration to you.

### Applications made from 1 April 2014

1.13. Providers who, from 1 April 2014, become required to hold an NHS provider licence and are already registered with the CQC should apply to us for a licence through the application process described in figure 3 below. From 1 April 2014, we will no longer issue an informal communication of a likely decision. The formal decision will normally be issued within 20 working days of receiving a completed application, unless queries or concerns are raised.

**Figure 3: Single licence application process from 1 April 2014**



1.14. From 1 April 2014, a provider who is not already registered with the CQC can choose to apply for both a CQC registration and NHS provider licence on the same form, called the Joint Licensing and Regulation (JLaR) form. The joint application consists of two parts: Part A (CQC registration) and Part B (NHS provider licence). Applicants will be able to access the form via the CQC's website. Providers will need to complete both Parts A and B of the JLaR form and submit it to the CQC's National Customer Service Centre by email or post. Providers who apply using the JLaR will



not need to apply separately to the CQC and then Monitor. The JLaR, and further details on how it will operate, will be published before 1 April 2014.

- 1.15. We currently anticipate that the JLaR process will take up to 12 weeks, with the bulk of this time required for the assessment needed for the CQC registration decision in line with their published timescales.<sup>2</sup> You should factor in the time it will take to process your application when deciding when and how to apply. For example, if you need to be registered and hold a licence by 1 May 2014 (ie, you were exempt up until that point) you may choose to use the single application process described in this guidance, and apply separately to the CQC, rather than wait until the JLaR becomes available on 1 April 2014. This will help to ensure that both applications for a licence and registration are received in enough time to be processed before 1 May 2014.
- 1.16. Further details on the representations and appeals process under the JLaR will be published before 1 April 2014.

### **Timing**

- 1.17. If you are a provider of NHS health care services, it is important that you consider promptly whether or not you are required to hold a licence. If you are not exempt from the requirement to hold a licence (see Exemptions Guidance), you should start the application process well in advance of 1 April 2014.
- 1.18. We will aim to process your application within 20 working days of receiving a complete application, unless queries or concerns are raised. Applications which raise queries or concerns may take longer. Please commence your internal processes, such as information gathering and obtaining any necessary internal authorisations, in good time to allow you to make a timely application. You should also build in enough time to allow for the making of informal representations, in the event you are notified that we are considering refusing your licence application.

### **Enquiries**

- 1.19. For any general or administrative enquiries regarding the licence application process or for technical queries on the completion of the form, please contact Monitor's Enquiries team (020 3747 0606; [enquiries@monitor.gov.uk](mailto:enquiries@monitor.gov.uk)). Please note that it is your responsibility to ensure your compliance with all applicable legal requirements, taking independent professional advice if needed.

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<sup>2</sup> See Question 45, [CQC Guide to the application process: Guidance for new providers](#).

## **2. Information you will need to complete your application**

2.1. The first stage of the application process involves giving us some basic information to authenticate you as a provider. You will be asked for:

- information about the applicant: name, registered address, contact details, company/charity registration number, and legal status;
- your CQC Provider ID Number;
- key contact correspondence details; and
- the completed appendix to your application if we have asked you to provide one with your application. In particular this applies to you if you provide services which have been designated as Commissioner Requested Services (see 4.27 for more details).

2.2. The second stage of the application process is more detailed. For this you will need:

- details of your financial year end for the last business year;
- information regarding any services you provide which have been designated as Commissioner Requested Services;
- details of your directors and governors or those with similar or equivalent functions and their dates of birth;
- details of your ultimate controller, if any;
- details of CQC conditions and enforcement actions; and
- details of any past applications you have made to Monitor for a licence.

### 3. Pre-authentication stage

In this section, we list the questions in the application form (see the blue boxes) and provide further information to help you complete your application.

**Figure 4: Sections of the application**

<b>Section 1:</b> Licence applicant details	<ul style="list-style-type: none"><li>• Questions relating to the identity of the applicant and the key contact completing the application form</li><li>• Requirement for the authentication of your application</li></ul>
<b>Section 2:</b> Provision of health care service(s) for the purposes of the NHS	<ul style="list-style-type: none"><li>• Questions to establish whether the applicant provides health care services for the NHS and whether this is under a direct contract or through an arrangement with other providers</li></ul>
<b>Section 3:</b> Licence exemptions	<ul style="list-style-type: none"><li>• Questions to understand whether the applicant is exempt from the requirement to hold a licence</li></ul>
<b>Section 4:</b> Licensing Grant Criteria	<ul style="list-style-type: none"><li>• Questions to determine whether the applicant meets the Licensing Criteria</li></ul>
<b>Section 5:</b> Care Quality Commission Registration Conditions	<ul style="list-style-type: none"><li>• Questions to understand whether the applicant has any conditions on their CQC registration</li></ul>
<b>Section 6:</b> Additional Information Request	<ul style="list-style-type: none"><li>• Questions to gather additional information required for Monitor's functions including information required to commence licensee monitoring in the event that the provider is licensed</li></ul>
<b>Section 7:</b> Licence Application Declaration	<ul style="list-style-type: none"><li>• General declaration to be signed by a person authorised to submit this application on behalf of the applicant</li></ul>

#### Section 1: Licence applicant details

3.1. The first section requests the information we need to authorise and authenticate your application. You should also confirm that you have read and understood the guidance. The key guidance documents you will need to complete your application are:

- this document, *Licence application guidance*; and
- the [Exemptions Guidance](#), issued by the Department of Health.

3.2. If we ask you to fill in and return an additional appendix, you will need to confirm that you have done so when prompted. This applies in particular for providers of Commissioner Requested Services (see 4.27 for more details).

## Commencing the application process

- 3.3. The licensing process is commenced by accessing the licensing application at [www.monitor.gov.uk/licence](http://www.monitor.gov.uk/licence). Where the provider is an individual, the individual will access and complete the application. Where the provider is not an individual, the application will be completed and submitted by the provider's key contact. The key contact must have the authority to complete the application on the provider's behalf and act as our main contact during the application process.
- 3.4. We may communicate with the key contact if we have questions about your application or need additional information to support your application.
- 3.5. Once licensed, providers can amend their account to designate a new key contact, add users or change contact details.

## Licence applicant details

- 3.6. In the first section, the key contact should enter the applicant's CQC Provider ID, confirm the provider name and registered address, and enter the key contact's name, job title, correspondence address and email.

### **Application questions:**

*1.1 Care Quality Commission Provider ID number*

*1.2 Provider Information*

*Your (provider) name, name(s) you trade under (if different), company registration number (if applicable), charity registration number (if applicable), address of registered office, website address, telephone number, legal status (drop down list: PLC, limited company, charity, partnership, joint venture and "other").*

*1.3 Key contact information*

*Job title, first name, last name, address for correspondence (selected from a drop down list of addresses from the CQC related to provider's ID number or "not listed" and provide information), email address and business telephone.*

### *CQC Provider ID*

- 3.7. The CQC Provider ID is a unique registration number given by the CQC for that provider, upon granting a CQC registration. If a CQC Provider ID is entered which is already in use in an application, or has been previously used to generate a licence, the licensing system will warn you that there is a duplicate licence application in

process. You will be unable to continue with the application using the CQC Provider ID you entered.

#### *Provider*

- 3.8. The licence requirement applies to the provider of health care services for the purposes of the NHS. “Health care” means all forms of health care, whether relating to physical or mental health.<sup>3</sup>
- 3.9. The provider is the person (natural or legal) – ie, the legal entity – who provides health care services. The [Exemptions Guidance](#) provides guidance on the definition of a provider.

#### *Name and registered address*

- 3.10. Using the CQC Provider ID, the provider name and registered company address, and any other location address that the CQC has listed, will be displayed in a drop down menu. The key contact will need to confirm that the provider name and registered address are correct. In the unlikely event the provider name and/or registered address are incorrect, you will be asked to contact our Enquiries team (020 3747 0606; enquiries@monitor.gov.uk). You cannot continue with the application until the registered address is correct. Once it has been corrected, you will then be able to continue your application.

#### *Trading name*

- 3.11. If your company trades under a name which is different than its registered name, that name must be included.

#### *Company/Charity Registration Number*

- 3.12. A registration number is a unique number (company number or LLP number) allocated by Companies House. The Charity Commission issues unique registration numbers for charities.

#### *Legal status*

- 3.13. Using the drop down menu, please tell us what the legal status of the applicant is: Limited Company; a Public Limited Company; a partnership; a charity; a joint venture; or other.

#### *Charity*

- 3.14. If you are either a charitable trust, or a charitable incorporated organisation, select charity from the drop down menu.

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<sup>3</sup> The 2012 Act, s.64(3).

### *Limited Company/Public Limited Company*

3.15. If you are a limited company which has a charitable purpose, select either “limited company” or “public limited company”, even if you have a charitable purpose. Either “limited company” or “public company” should be selected, based on the legal status of your company, as set out in paragraph 3.13.

### *Other*

3.16. If your organisation’s legal status is not indicated on the drop down menu, please select “other” and provide details when prompted.

### *Key contact information*

3.17. You will be asked for the name and job title of the key contact. You will also be asked to provide a correspondence address. You will have a choice of selecting either the registered address, or one of the other location addresses held by CQC displayed in the drop down menu. If the correspondence address that you wish to use is not listed, you may type in a new one. An address that is typed in must be accompanied by either a URL to a publicly-listed address on the provider website or by the name, job title and contact details of a director at the provider organisation, whom we can contact to confirm that the address is valid. If we cannot validate this address, we will notify you by email using the address you have provided, and you will need to provide a further correspondence address that can be validated in order to be able to proceed.

3.18. The key contact will also need to provide his or her own professional contact details, including an email address. We will ask you to confirm, when you submit your application, that this email address can be used for administrative correspondence as well as formal notices, including of our decisions (as explained at paragraph 6.4). The email address will then be used throughout the process as our main means of correspondence with you, including to update you on the progress of your application.

### **Authentication**

3.19. Once you have submitted Section 1 of the application form, we will send a passcode through the post to the correspondence address indicated on your application. We will also send a PIN to you by email. You will need both the passcode and the PIN to authenticate the account and continue with your application. The passcode must be used within 28 days from the date of the letter in which it is sent, otherwise it will expire.

3.20. You must use your CQC Provider ID, PIN and passcode to authenticate your provider’s account. Once the account is authenticated, you will be prompted to set up a username and password.

3.21. Once you have set up your account, you will be able to access the entire online application. You will now be able to complete the application and submit it. The next section provides guidance on how to complete the application.

## 4. The licence application after authentication

- 4.1. Once your contact details have been authenticated, you will be able to proceed to Sections 2–7 of the online application. Answers to the questions in these sections will provide us with the information we require to make a decision on your application, as well as assisting us to commence our monitoring of licensees from 1 April 2014.

### **Section 2: Requirement for Licence - Provision of health care service(s) for the purposes of the NHS**

- 4.2. In Section 2, we will ask you to provide information about the type of health care services you provide. This information is relevant to the question of whether or not you provide health care services for the purposes of the NHS.

#### **Application questions:**

*2.1 Do you provide health care service(s) for the purposes of the NHS? (Y/N)*

*2.1.1 Do you provide health care service(s) for the purposes of the NHS through a contract directly with a Clinical Commissioning Group and/or NHS England? (Y/N)*

- 4.3. The 2012 Act requires every provider, which provides a health care service for the purposes of the NHS, to hold a licence unless they are exempt.<sup>4</sup> You can be a provider of health care services for the purposes of the NHS if you provide services as a contractor commissioned directly by a Clinical Commissioning Group (“CCG”) or NHS England. This also applies if you provide services as a subcontractor. Please let us know if you provide services directly through arrangements with a CCG, or NHS England, or if you provide services as a subcontractor. For guidance on what it means to be a provider of NHS health care services, please see the [Exemptions Guidance](#).

#### **Application questions:**

*2.1.1.1 Do you provide any health care service(s) for the purposes of the NHS through a multi-party contract with Clinical Commissioning Group(s) and/or NHS England and other provider(s)? (Y/N)*

*2.1.1.2 This question is currently not being used. You must put “n/a” in the field below to be able to continue with your application.*

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<sup>4</sup> The 2012 Act, ss. 81-83.



- 4.4. In this question, we ask you whether you are providing NHS health care services through a contract with Clinical Commissioning Group(s) and/or NHS England when there may be one or more other providers who are a party to that contract.

**Application question:**

2.1.2 Do you provide health care service(s) for the purposes of the NHS through an arrangement with another provider? (Y/N)

2.1.2.1 This question is currently not being used. You must put “n/a” in the field below to be able to continue with your application.

- 4.5. NHS health care services can be provided through an arrangement with another provider. If you provide health care services through an arrangement with another provider, such as subcontracted services, you need to consider if you are required to hold a licence independently.<sup>5</sup> For information on the definition of a provider for the purposes of working out if you may be required to hold a licence, please refer to the [Exemptions Guidance](#).

### **Section 3: Requirement for Licence - Licence Exemptions**

- 4.6. In Section 3, we ask for information which will allow us to assess whether or not you might be exempt.
- 4.7. Once you have answered all the questions in Section 3, an advisory message, indicating that you may be exempt from the licensing requirement, may be displayed. This message will be accompanied by four options: (1) stop the application; (2) continue with the application; (3) go back and review/amend answers, and continue with the application; and (4) save the form and return at a future point. It is important to note that you may be liable to formal enforcement action including, potentially, a fine, if you engage in activity for which a licence is required.
- 4.8. If you submit an application, and we assess, based on the information provided, that you are exempt from the requirement to hold a licence, we will not consider your application further. Please see paragraph 6.9 for further details regarding applications which we cannot consider.
- 4.9. It remains the provider’s responsibility to ensure compliance with all the legal rules of the licensing regime, including compliance with the requirement to hold a licence if applicable. If you fail to obtain a licence when you are required to do so, you will be acting in breach of legal rules and you could be subject to enforcement action including, potentially, a fine. For more information, please see paragraph 6.9 below.

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<sup>5</sup> The National Health Service (Licence Exemptions, etc.) Regulations 2013, reg.2(5).

### *Assessing if an exemption applies*

4.10. The exemptions to the requirement to hold a licence are set out in regulations.<sup>6</sup> It is the responsibility of providers, taking independent advice if necessary, to check if a licence is required in their particular circumstances. Monitor can take enforcement action as described above against providers who do not hold a licence when required to do so.

4.11. The following are not required to hold a licence:

- NHS trusts;
- providers who are not required to register with the CQC;
- providers of primary medical and dental services;
- small providers of NHS health care services, whose annual applicable turnover from the provision of NHS services is less than £10 million; and
- providers of NHS continuing health care and NHS-funded nursing care.

However, all providers of Commissioner Requested Services will be required to hold a licence, even if they are otherwise exempt.

4.12. If you cease to qualify for an exemption, you must obtain a licence. For example, if you are exempt on the basis of the provision of non-regulated activities, if you begin to provide regulated activities (as defined at paragraph 4.16), and are then required to register with the CQC, you will need a licence.<sup>7</sup> For guidance on the time frame which applies when an exemption ceases to be available, see the [Exemptions Guidance](#).

4.13. The exemptions to the requirement to hold a licence are set out below. For guidance to help you work through the exemptions and assess whether you are exempt, or will need to apply for a licence, please see the [Exemptions Guidance](#).

#### **Application questions:**

*3.1 Are one or more of the health care services you provide for the purposes of the NHS, regulated activities for the purpose of registration with the Care Quality Commission under Chapter 2 of Part 1 of the Health and Social Care Act 2008?*  
[Y/N]

<sup>6</sup> *The National Health Service (Licence Exemptions, etc.) Regulations 2013.*

<sup>7</sup> *The National Health Service (Licence Exemptions, etc.) Regulations 2013, reg.7.*

*3.1.1 Are you registered with the Care Quality Commission in accordance with Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying out of all regulated activities? [Y/N]*

### *CQC Registration*

4.14. The CQC is the independent regulator of health and social services in England. The CQC requires those who undertake regulated activities to register with it.

4.15. In this question, we ask you to tell us whether or not you are registered in respect of all the regulated activities you carry out.

4.16. Providers who are not required to register with the CQC are not required to hold a provider licence unless they provide Commissioner Requested Services (see paragraph 4.25 onwards). Regulated activities are listed in Schedule 1 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2012. We ask you to tell us which regulated activities you are registered with the CQC to provide. The regulated activities are:

- personal care;
- accommodation for persons who require nursing or personal care;
- accommodation for persons who require treatment for substance misuse;
- accommodation and nursing or personal care in the further education sector;
- treatment of disease, disorder or injury;
- assessment or medical treatment for people detained under the Mental Health Act 1983;
- surgical procedures;
- diagnostic and screening procedures;
- management of supply of blood and blood-derived products;
- transport services, triage and medical advice provided remotely;
- maternity and midwife services;
- termination of pregnancies;
- services in slimming clinics;
- nursing care; and

- family planning services.

4.17. See the CQC website for more information on what constitutes a regulated activity and to find out if you require CQC registration.<sup>8</sup>

*Primary medical and dental care services, NHS continuing health care and NHS-funded nursing care*

**Application questions:**

*3.2 Do all of the health care services you provide for the purposes of the NHS fall into one or more of the categories below? Primary Medical Services; Primary Dental Services; NHS Continuing Healthcare; NHS-funded Nursing Care?*

*3.2.1 Please indicate which of the following health care services you provide for the purposes of the NHS: (Primary Medical Services; Primary Dental Services; NHS Continuing Healthcare; NHS-funded Nursing Care) [Y/N]*

4.18. Providers of either primary medical services or primary dental services are exempt from the requirement to hold a licence. Primary medical and dental services are those provided under Part 4 and 5 of the NHS Act 2006, known as General Medical Services (GMS), Personal Medical Services (PMS), Alternative Provider Medical Services (APMS) and General Dental Services (GDS).

4.19. Providers of nursing care, defined as providing either NHS continuing health care and NHS-funded nursing care, will not be required to hold a licence.

4.20. This exemption is set to expire on 31 March 2015. Before that point, the Department of Health will review the exemption and determine whether it should continue.<sup>9</sup>

4.21. For guidance which will assist you in understanding whether you are a provider of NHS primary medical or dental services, NHS continuing health care or NHS-funded nursing care, please see the [Exemptions Guidance](#).

*Applicable turnover*

**Application question:**

*3.3 Is your applicable turnover for the relevant business year £10 million or more?*

<sup>8</sup> The CQC website contains information on what constitutes a regulated activity: <http://www.cqc.org.uk/organisations-we-regulate/registering-first-time/regulated-activities>.

<sup>9</sup> There are no such time limits applied to the other exemptions.

- 4.22. Providers are exempt if their annual applicable turnover from the provision of NHS services is less than £10 million. To qualify for this exemption, the provider's applicable turnover for the last business year in which turnover figures are available, must be less than, or reasonably expected to be less than, £10 million.
- 4.23. For guidance on the definition of applicable turnover, please see the [Exemptions Guidance](#).
- 4.24. You must notify us as soon as you realise that this exemption no longer applies. For applicants that are organisations, the applicant will be deemed to be aware that it no longer meets the criteria for this exemption on the day that its accounts for the relevant business year are signed.<sup>10</sup> The exemption will be withdrawn 60 days from that date.<sup>11</sup> You will need to apply and obtain a licence from us within the 60 days.

*Commissioner Requested Services*

**Application questions:**

*3.4 Do you provide healthcare services for the purposes of the NHS that are designated as Commissioner Requested Services?*

*3.4.1 Please provide a list of all commissioners you provide Commissioner Requested Services for with the specified details.*

- 4.25. Commissioner Requested Services are services which NHS England or commissioners may determine as requiring additional regulation in order to protect the interests of patients who use those services in the event that the provider gets into financial difficulty. Services are designated as Commissioner Requested Services based on guidance from Monitor. If commissioners have designated any of the services you provide as Commissioner Requested Services, then you are required to hold a licence even if you are otherwise exempt from that requirement<sup>12</sup>. Commissioners will be able to use a [form developed by Monitor to complete their Commissioner Requested Services designations](#). This form will then be used to formally notify you and us of the designation.
- 4.26. If you are exempt from the requirement to hold a licence and you subsequently contract to deliver any Commissioner Requested Services, it is your responsibility to apply for a licence. You have a maximum of 60 days from the point at which you are notified of such a designation to obtain a licence. Should you fail to do so, we can take any necessary action against you.

<sup>10</sup> *The National Health Service (Licence Exemptions, etc.) Regulations 2013*, paragraph 8(4).

<sup>11</sup> *The National Health Service (Licence Exemptions, etc.) Regulations 2013*, paragraph 8(5).

<sup>12</sup> *The National Health Service (Licence Exemptions, etc.) Regulations 2013*.

- 4.27. Where we receive an application under these circumstances, we will first confirm with the relevant commissioner(s) that such a designation exists. We ask you to forward us, as an appendix to your application, the designation notification you have received from your commissioners. This should be sent to [crs@monitor.gov.uk](mailto:crs@monitor.gov.uk). When completing your application, you will also be prompted at the start to confirm that you have submitted an appendix to your application. You should confirm that you have done so and then progress normally with your application. Should we require any additional information to consider your application under the above circumstances, we will contact you as soon as possible to discuss our requirement.
- 4.28. We will aim to complete the review of your application within a reasonable timeframe to ensure that you are able to have a licence in place within 60 days. However, should you delay your application to us, if we need additional information and/or require longer to review your application, this may impact the time we take to make our final decision.
- 4.29. If you are notified that one or more of your services have been designated as Commissioner Requested Services and this notification happens after you have submitted your application to us, but before we have issued a licence or a Notice of Refusal, you will need to amend your application (see Section 6 of this guidance).
- 4.30. If, after we have issued a licence to you, you are notified by your commissioner that your services have been designated as Commissioner Requested Services, please let us know as soon as possible.

*Information about Commissioner Requested Services contracts*

- 4.31. In question 3.4.1 we have requested information about the contracting arrangements under which you provide Commissioner Requested Services. We need this information to reconcile a provider with a commissioner who has designated the services as Commissioner Requested Services.
- 4.32. In response to question 3.4.1, please provide:
- the name of the commissioners you provide Commissioner Requested Services for (eg, NHS Barnet CCG);
  - your contract reference (this can be a reference number or the name that appears on the contract documentation);
  - a short description of the services and value of the contract;
  - the contract start date;
  - contract end date; and

- name of the parties to the contract.

#### *Multiple services*

4.33. Where a company provides a number of different NHS services, more than one exemption may apply. Therefore, you should consider whether or not an exemption applies by reference to each NHS service provided. For example, a provider of primary care services, sexual health and community services would not be required to hold a licence in respect of the primary care services provided under Part 4 and 5 of the 2006 Act. That provider may be required to hold a licence for the other services it provides. However, if the income (calculated in terms of applicable turnover) is less than £10 million annually, then the provider will not require a licence.

#### *Information provision*

4.34. All exemptions (except for NHS trusts) are conditional on providers complying with requests from Monitor for any information we consider necessary or expedient to have in order to perform our regulatory functions<sup>13</sup>.

### **Section 4: Licence - Licensing Grant Criteria**

4.35. In Section 4 of the application, we need to ask for information which will allow us to assess if you meet Criteria 1 and 2 and therefore whether we can grant you a licence.

#### *Criterion 1: CQC Registration*

4.36. If an applicant is, in providing a health care service for the purposes of the NHS, carrying on a regulated activity, the applicant must be registered with the CQC in respect of that regulated activity. Therefore, we must consider whether or not an applicant who is required to be registered with the CQC – because it is carrying out a regulated activity – is in fact registered.

4.37. A provider who is not required to register with the CQC may still be required to hold a licence. Where the provider does not provide an activity which is regulated by the CQC, but provides services which have been designated as Commissioner Requested Services, that provider will still be required to hold a licence. A provider who is not required to register with the CQC will still have to satisfy Criterion 2.

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<sup>13</sup> See *The National Health Service (Licence Exemptions, etc.) Regulations 2013*, reg.9(4).

**Application question:**

4.1 If you have answered Yes to question 3.1.1 above confirming that you are registered for all regulated activities you carry out, please tick a y/n below to confirm all your registered activities: personal care; accommodation for persons who require nursing or personal care; accommodation for persons who require treatment for substance misuse; accommodation and nursing or personal care in the further education sector; treatment of disease, disorder or injury; assessment or medical treatment for persons detained under the Mental Health Act 1983; surgical procedures; diagnostic and screening procedures; management of supply of blood and blood-derived products; transport services, triage and medical advice provided remotely; maternity and midwifery services, termination of pregnancies, services in slimming clinics, nursing care, and family planning services.

4.38. Please indicate which regulated activity you engage in for the purposes of CQC registration. Please see paragraph 4.16 for more information about regulated activities.

*Criterion 2: Provider Fitness*

**Application questions:**

4.2 Please provide below the required details for all directors, governors and those performing equivalent or similar functions of: your organisation (which is applying for a licence); your corporate director(s) (if applicable); and the parent body (bodies) of all your corporate director(s) (if applicable).

*If you are an individual provider, please provide your own name, surname and date of birth. For 'Function' please select "Equivalent/similar to Director or Governor" and for 'Organisation please select "Applicant Organisation".*

*Questions 4.2.1 to 4.2.2.3: detailed questions on provider fitness*

4.39. The second criterion we must consider is whether or not the provider of health care services for the purposes of the NHS is fit to hold a licence.<sup>14</sup> The criterion sets out two definitions of unfit persons, one for individuals and one for corporate bodies, and

<sup>14</sup> *The National Health Service (Approval of Licensing Criteria) Order 2013, Schedule 1, paragraph 2.*



describes how these are to be applied to assess the fitness of applicants who are individuals and of applicants which are not individuals. The definitions of unfit persons are set out below.

*Applications from individuals (natural persons)*

4.40. Where the provider is an individual, Monitor must consider that person's fitness only, by reference to the definition of individual unfit persons.

*Applications from others/those who are not individuals, including companies and other entities (legal persons)*

4.41. Where the provider is not an individual, such as a company or other entity, we must consider that provider's fitness by reference to:

- all its directors (if any) and all its governors (if any), none of whom must fall within the definition of individual unfit persons; and
- all its corporate directors (if any) in the following way:
  - the corporate directors, none of whom must fall within the definition of corporate unfit persons (note that this definition includes reference to parent bodies of such corporate directors if any); and
  - the individual directors or governors of that corporate director, and of any parent body of that corporate director, none of whom must fall within the definition of individual unfit persons; and
- all those performing equivalent or similar functions to directors or governors (if any) as described below.

*Directors and governors*

4.42. The regulations define "director" as including "any individual who performs the functions of ... a director of an NHS Foundation Trust ... or of a company registered under the Companies Act 2006."<sup>15</sup> Therefore those who have been formally appointed as directors of registered companies are directors for the purpose of this criterion.

4.43. The regulations define "governor" as including any "individual who performs any of the functions of ... a governor of an NHS foundation trust, as conferred by any enactment".<sup>16</sup> Therefore those who have been formally appointed or elected as governors of NHS foundation trusts are governors for the purpose of this criterion.

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<sup>15</sup> *The National Health Service (Approval of Licensing Criteria) Order 2013*, Schedule, paragraph 2.

<sup>16</sup> *The National Health Service (Approval of Licensing Criteria) Order 2013*, Schedule, paragraph 2.

4.44. The regulations provide that any individual who performs any of the functions of, or equivalent or similar to, the functions of “director” and “governor”, includes a partner in a partnership.<sup>17</sup>

*Those performing equivalent or similar functions to directors or governors*

4.45. In responding to all the questions in 4.2, it is the responsibility of providers to consider whether they have within their organisations any people who are performing equivalent or similar functions to directors or governors. We will accept the responses of providers unless alerted to information indicating that these responses need to be queried further or challenged.

In considering this point, providers should have in mind, as described in the explanation of the regulations<sup>18</sup>, that the aim of this part of the regulations is to include within the fitness test those other than actual directors or governors who are involved in overseeing the provider organisation and thus influencing the provision of health care services by that provider in a comparable way to directors and governors.

4.46. Providers should consider this point by taking into account all the relevant facts and circumstances in the round. In each case, the role performed by the relevant person must be considered in the context of the governance of your organisation given its size, operations and financial status. The focus of any assessment must be the substance of the role performed by the relevant person and not their job title alone. Set out below is a non-exhaustive list of considerations for this assessment by reference to the roles of actual directors and governors.

4.47. If a person holds themselves out as a director, and carries out the role of director even if not formally appointed as such, that person is to be regarded as performing functions of, or similar or equivalent to, a director. This position is consistent with that taken under the Companies Act 2006, which defines the expression “director” as including “any person occupying the position of director by whatever name called”.<sup>19</sup>

4.48. We consider that the following can be indicators that a person may be regarded as performing a function equivalent or similar to a director:

- the person presumes to act as if he/she were a director; and/or
- the person is either solely directing the affairs of the company, or he/she has a predominant influence and force with respect to those affairs; and/or
- the degree of his/her involvement with the management of the company is at least equivalent to that of the named directors; and/or

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<sup>17</sup> *The National Health Service (Approval of Licensing Criteria) Order 2013*, Schedule, paragraph 2.

<sup>18</sup> See the Explanatory Memorandum to *The National Health Service (Approval of Licensing Criteria) Order 2013*.

<sup>19</sup> Section 250.

- the functions performed are ones that would generally be undertaken by a director, rather than a manager or other employee below board level; and/or
- the person is not accountable to others in their organisation, other than at board level, for their decisions.

4.49. A person in accordance with whose directions or instructions the directors of a company are accustomed to act, referred to as a “shadow director”, will also be considered to be a person performing functions of, or similar or equivalent to, a director.

4.50. To assess whether someone is performing equivalent or similar functions to an NHS foundation trust governor, providers should have regard to governors’ statutory functions and consider whether they have a person other than an actual director or governor performing such functions.

4.51. NHS foundation trust governors perform a range of functions, prescribed by statute<sup>20</sup>, and these include the following:

- appoint and, if appropriate, remove the chair of the board of directors;
- decide the remuneration and allowances and other terms and conditions of office of the chair and the other non-executive directors;
- approve (or not) any new appointment of a chief executive; and
- approve an application by the trust to enter into a merger, acquisition, separation or dissolution.

Given the relatively unique combination of functions of foundation trust governors, when considering if someone performs equivalent or similar functions to their statutory functions, providers should consider the role that such functions enable governors to play in the governance of their organisations, including in relation to strategic, operational, regulatory or financial matters.

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<sup>20</sup> NHS Act 2006, as amended by the 2012 Act, Section 56(A); Schedule 7, paragraphs 17–18.

## 5. CQC registration conditions and additional information requests (Sections 5 and 6)

5.1. In Sections 5 and 6 of the application, we ask for additional information that we will require to monitor licence holders and this information will not be used in making the decision whether or not to grant you a licence. We also ask licensed providers to provide further information within a month of being licensed (see Section 7 of this guidance) and we will let you know in advance about this.

### Section 5: Care Quality Commission registration conditions

#### **Application question:**

*5.1 Is your registration with the CQC subject to any conditions? [Y/N]. If yes please provide details below.*

5.2. We need to know if your registration with the CQC is subject to conditions. We do not need to know about the routine “restrictive conditions” which are made during the initial registration process, such as the location where a regulated activity can be provided and the need to have a regulated manager. However, we do require you to provide information regarding:

- any restrictive conditions which have been imposed by the CQC at the time of registration because it had concerns about compliance; and
- any restrictive conditions imposed after initial registration because the CQC had concerns about compliance.

5.3. The information provided should be:

- the text of all conditions as they currently stand (ie, after variation if relevant); and
- the dates all conditions were imposed.

5.4. As part of our ongoing monitoring, we may discuss these conditions, including their basis, with the CQC.

5.5. You do not need to tell us about those conditions which have now been removed.

## Section 6: Additional information requests

*Information related to provision of CRS*

### **Application question:**

*6.1 Do you have an Ultimate Controller(s)? If Yes provide: name of Ultimate Controller(s); Company Registration Number(s) (if applicable); website address(es); key contact(s) at Ultimate Controller(s), job title, first name, last name, address for correspondence, email address, business telephone.*

- 5.6. An ultimate controller is any body that could instruct the licensee to carry out particular actions so long as that body cannot be required to act in accordance with the instructions of another. In practice, the ultimate controller would usually be the parent company of a subsidiary company, where it is the subsidiary company that has been licensed by Monitor. If there is no body that can instruct the licensee in this way, then the licensee does not have an ultimate controller.
- 5.7. Where a licence holder has an ultimate controller, it will be required to put in place a legally enforceable agreement with their ultimate controller called an ultimate controller undertaking. An ultimate controller undertaking is a regulatory instrument designed to prevent parent companies from taking actions that would cause a licensee to breach its licence. The agreement between the licensee and the ultimate controller would require the ultimate controller to refrain from taking any action that would cause the licence holder to breach its licence obligations.
- 5.8. It may be unusual for a provider to have more than one ultimate controller. However, if you consider that you have two or more ultimate controllers, please provide the specified details for all of them.

*CQC Enforcement Action*

### **Application question:**

*6.2 Are you currently subject to enforcement action by the CQC [Y/N]. If yes please provide details below (including date of issue)*

- 5.9. The CQC has the power to regulate services and take enforcement action against those who fail to comply with the relevant legislation (eg, the Health and Social Care Act 2008 and the regulations made under it). We ask here whether the applicant is currently subject to enforcement action by the CQC.

*Financial Records*

**Application questions:**

*Financial Year End*

6.3 *What was the date of your last financial year end?*

6.4 *What is the date of your establishment/date of incorporation?*

6.5 *If your last financial year was not 12 months please indicate the period it covered.*

6.6 *What is the date of your next financial year end?*

5.10. We require certain information about the way you maintain your financial records. This is to assist us, if you are licensed, with our monitoring of licence holders.

*Licence previously held/applied for*

**Application questions:**

*Licence previously held/applied for*

6.7 *Have you previously held an NHS Provider Licence? [Y/N] If yes please provide details (provider name, licence number and date granted)*

6.8 *Have you ever made an application for an NHS Provider Licence that was refused? [Y/N] If yes please provide details (including provider name(s), date(s) and reason(s) for refusal of the licence.*

6.9 *Have you ever made an application for an NHS Provider Licence that you withdrew before Monitor made its decision as to grant or refusal? [Y/N] If Yes please provide details (including provider name(s), date(s) and reasons for withdrawal of the application.*

5.11. You need to tell us if you have previously held, or applied for, a licence. If so, please provide the name of the licence holder, the licence number, and the date the licence was granted or refused. If the application was withdrawn before a decision to grant or refuse was made by us, please state the applicant name, the date of the application and the reason why the application was withdrawn.

## 6. Licence application declaration and submission

### Key contact

- 6.1. All organisations other than individuals should have a key contact. This is a person who will act as the main contact with us. The key contact must be a person who has the authority to complete the application and we can contact if we need further clarification or information relating to your application.

### Declaration

- 6.2. The person who is submitting an application must sign the declaration on the application. For an individual applicant that individual will sign the declaration. Where an organisation is submitting an application, a person (ie, the key contact) who has been duly authorised to do so must make the required declaration.
- 6.3. Pursuant to the declaration, the individual or key contact must:
- acknowledge that he has the authority to submit the application;
  - confirm that the information provided on the application is accurate, complete and not misleading, to the best of the applicant's knowledge and belief at the time of entry (for non-individuals this means to the best of the key contact's knowledge and belief);
  - undertake that where information which has been entered on the application is no longer accurate, complete and not misleading, updated information, which is accurate, complete and not misleading, will be provided to Monitor promptly; and
  - acknowledge that Monitor will use the information provided on the form, including personal data, and any other relevant information that Monitor obtains or receives, for the purpose of performing its regulatory functions.
- 6.4. Prior to submitting your application you will be asked, by ticking the relevant box, if you consent to the receipt of formal notices electronically, and that the email address provided in response to question 1.3 can be used for that purpose.<sup>21</sup>
- 6.5. We may share the information you provide on the application with other regulators and public bodies, including the CQC. In particular, we have an obligation to share information with the CQC where that information would assist the CQC with the exercise of its functions.<sup>22</sup>

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<sup>21</sup> See The 2012 Act, ss 148-9.

<sup>22</sup> See The 2012 Act, s 218.

6.6. If any of the information you have provided changes prior to your receiving a Notice of Decision, pursuant to this declaration, you must inform us as soon as reasonably practical.

### **Submitted applications**

6.7. Once the application has been completed and submitted we will send an email to you confirming receipt of the application.

6.8. Following this, your application will be assessed. If we require additional information we will ask you for it; please provide it to us promptly.

6.9. In some circumstances, we may contact an applicant to state that we are unable to consider the application. This could be because the answers given under Section 3 of the application demonstrate that the provider is exempt, or because of inconsistencies within the application. An applicant will be advised as to how to proceed if this is the case.

### **Incomplete applications**

6.10. We cannot process incomplete applications. These will be rejected and we will let you know if this is the case. We strongly advise you to take care to complete your application fully and accurately, as gaps or inaccuracies will delay your application. Please note that you can, however, save your application and return to it at a later date.

### **Amended application**

6.11. Once you have submitted your application, Monitor will process it. If we require further information, we will let you know. If you need, subsequently, to amend any details of your application, please send the full details of the requested amendments by email to our Enquiries team at [enquiries@monitor.gov.uk](mailto:enquiries@monitor.gov.uk). You will not be able to amend this information yourself. If you want to change the email address we hold for correspondence, please confirm also if you agree for this new address to be used by Monitor to send you formal legal notices as well as for administrative purposes (see paragraph 6.4).

6.12. If you want to change the correspondence address of the key contact, you will need to provide us with all the relevant key contact details (see paragraphs 3.17-3.18).

6.13. You should be aware that amendments to applications can cause delay. If you want to make other changes to your application than those mentioned above (paragraphs 6.11 and 6.12), we will, in most cases, ask you to complete a new application for us. We will then process your amended application.



6.14. If you provide us with further information, or amendments to the information already provided, before we issue your licence, but after we have given an informal indication that we are minded to grant or refuse a licence, we will revisit, and may change, our position. This is a further reason why it is important that you ensure that the information provided originally is accurate and complete.

### **Withdraw an application**

6.15. If at any point in the application process, you want to withdraw your application, you will need to confirm this by email, with the reasons why you are withdrawing your application, to our Enquiries team at [enquiries@monitor.gov.uk](mailto:enquiries@monitor.gov.uk).

6.16. If you withdraw your application before we make our final decision to grant or refuse a licence, but after we informally indicate our likely decision, this may lead to further information requests and/or action from us if, for example, we consider that you may not be exempt from the requirement to hold a licence.

### **Notice of Decision**

6.17. If Monitor is satisfied that the applicant meets Criterion 1 and 2, we will, as soon as reasonably practicable, grant the application and send a Notice of Decision.<sup>23</sup> We will aim to issue a decision within 20 working days of accepting a fully completed application to the date that the Notice of Decision is sent, unless queries or concerns are raised which cannot be addressed in that timeframe. For applications made before 1 April 2014, we will aim to issue an informal indication of our likely decision within the same time period. We will then inform you of our formal decision on 1 April 2014. Additionally, as considered above, if an application is amended, or key details change, the decision-making process may take longer.

6.18. If the decision is to issue a licence, the applicant, or in the case of a non-individual, the key contact, will be able to view the licence on the provider's portal from 1 April 2014. Further information on the portal will be provided once you are licensed and the key contact will also be able to set up further account users within the provider. The Register of Licence Holders on Monitor's website will also be updated.

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<sup>23</sup> S.87, The 2012 Act.

## 7. Additional information requests (advance indication of request once licence is granted)

- 7.1. If a licence is granted, you will be asked to send us additional information within one month of this grant, via the provider portal. The information sought will include financial information, the nature of your contractual arrangements, compliance with CQC conditions as well as information regarding Commissioner Requested Services, if relevant.

### Information to be provided by all licensed providers

*1.1 The value of your applicable turnover and total turnover in £ for the relevant business year.*

- 7.2. The definitions of “applicable turnover” and “relevant business year”, for the purpose of this calculation, are the same as used in relation to the *de minimis* exemption to the requirement to hold a licence. These are set out in Section 8 of the [Exemptions Guidance](#).
- 7.3. Total turnover is the total turnover of the provider in the last relevant business year.
- 7.4. We require this information to understand what proportion of the provider’s turnover is derived from the provision of NHS health care services.

### Information to be provided only by providers of Commissioner Requested Services

- 7.5. We require information about the value and nature of CRS as well as the way in which they are delivered. We seek information, in particular, on whether or not CRS are provided by prime contractors or subcontractors as well as the information regarding who has commissioned CRS. We also seek information regarding the financial position of providers of CRS.

*2.1 The list of services designated as CRS in the specified format.*

- 7.6. You need to provide us with a list of all the services you provide which have been formally designated by a commissioner as CRS.

*2.2 The value in £ of the CRS you have been contracted to deliver by commissioner at the time you submit this information to Monitor.*

- 7.7. In response to question 2.2, state the annual contractual value of the CRS which you have been contracted to deliver. This information should be current, ie, the annual contractual value as at the date the information is submitted.

*2.3 If you are providing health care services to the NHS as a prime contractor, have you entered into sub-contracting arrangements with one or more other providers for them to provide part or all of these services?*

7.8. If the answer to this question is yes, you will be required to provide further information (see question 2.4 below).

*2.4 If you are providing Commissioner Requested Services as a prime contractor, have you entered into sub-contracting arrangements with one or more other providers for them to provide part or all of these services? If so, please provide the specified details.*

7.9. In response to question 2.4, providers of CRS should state:

- the contract reference (this can be a reference number or the name that appears on the contract documentation);
- the name of the commissioner the CRS are provided for;
- the list of CRS in the contract;
- whether the CRS is fully or partly delivered through a sub-contracting arrangement with other providers; and
- the name of the providers who are sub-contracted to deliver these CRS.

*2.5 Ultimate Controller declaration in accordance with the requirements of Condition CoS4 of the NHS Provider Licence.*

7.10. Under Continuity of Services licence condition 4, a CRS provider who has an ultimate controller must provide an undertaking declaration from its ultimate controller. We will provide a template for the undertaking.

*2.6 Last available credit rating (if you have one).*

7.11. Please provide your latest credit rating, as well as the date of that credit rating, if you have one. If you do not already have a credit rating, you do not have to provide this information. We will publish further information relating to credit ratings in 2014.

*2.7 Information relating to your transactions.*

*2.8 Information relating to your financial plans.*

*2.9 Last full set of annual report and accounts.*

7.12. We will request routine information about your planned transactions, as well as about your financial planning generally.

## 8. Representations and appeals

- 8.1. We must refuse an application for a licence where the licence grant criteria are not met.<sup>24</sup> In such cases Monitor will give a Notice of Proposal to Refuse (including its reasons) and will specify the period within which the applicant may make representations to Monitor with respect to the above Notice. This period will be no less than 28 days.<sup>25</sup>
- 8.2. If we do not accept your representations, we will confirm our proposal through a Notice of Decision to Refuse. You can appeal against our decision to the Care Standards jurisdiction of the First-tier Tribunal, which is an independent tribunal.<sup>26</sup> The Notice of Decision will explain the right of appeal.<sup>27</sup> Appeals may be made based on errors of fact, errors of law or on the unreasonableness of a decision. More information on the First-tier Tribunal will be available in 2014. The tribunal service's address is:

**First-tier Tribunal – Care Standards Appeals**  
**Mowden Hall**  
**Staindrop Road**  
**Darlington**  
**DL3 9BG**

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<sup>24</sup> The 2012 Act, s.87.

<sup>25</sup> The 2012 Act, s.90.

<sup>26</sup> The 2012 Act, s.91(2).

<sup>27</sup> The 2012 Act, s.91(2).

## 9. Compliance

- 9.1. Licensed persons have a duty to make sure that the regulated activities they are responsible for are carried on and managed in a way that complies with their licence conditions. Licence conditions can take the form of standard conditions, which apply to all licence holders, or to particular types of licence holder, and special conditions, which will apply to an individual provider. The standard licence conditions can be found [here](#).
- 9.2. We have powers, under the 2012 Act, to take action against actual or suspected licence breaches. These include the power to take action to stop a breach continuing, rectify the breach and/or to impose a fine. We also have the power to revoke a licence. Our *Enforcement Guidance* sets out the principles we would follow in taking enforcement action.
- 9.3. Please visit our [website](#) for the most current information on how we regulate providers of NHS health care services.

## **Annex A: Associated documents**

[The Health and Social Care Act 2012](#)

[The National Health Services Act 2006](#)

[The National Health Service \(Approval of Licensing Criteria\) Order 2013 and Explanatory Memorandum](#)

[The National Health Service \(Licence Exemptions, etc.\) Regulations 2013 and Explanatory Memorandum](#)

[\*Protecting and promoting patients' interests: Licence exemptions: guidance for providers\*](#) (Department of Health document)

### **Monitor publications:**

[\*Enforcement Guidance\*](#)

[\*The new NHS provider licence\*](#) and its annex [\*NHS provider licence standard conditions\*](#)

[\*Guidance for commissioners on ensuring the continuity of health care services\*](#)

[\*Risk assessment framework: addendum for assessing risk at independent providers of Commissioner Requested Services\*](#)

## Annex B - questions from the online application for an NHS provider licence

***NB: The application form will be available online at:  
[www.monitor.gov.uk/licence](http://www.monitor.gov.uk/licence)***

### **Section 1 – Licence Applicant Details**

#### **1.1 CQC details**

Care Quality Commission Provider ID number

#### **1.2 Provider information**

Your (provider) name

Name(s) you trade under (if different from the above)

Company registration number (if applicable)

Charity registration number (if applicable)

Address line 1

Address line 2

Town/City

County

Postcode

Website address

Telephone number

Your legal status

If “other” has been selected as the legal status above, please give particulars

#### **1.3 Key contact information for your application**

Job title

First name(s)

Last name

Address for correspondence

If “not listed” has been selected as the address for correspondence above please provide an alternative correspondence address.

If you have provided an alternative correspondence address above, please also provide EITHER:

- 1.a URL which shows this is a publicly recognised address for the provider; or
2. specified contact details for one of your Directors/Governors/a person performing equivalent or similar functions for verification purposes.

Email address

Business telephone

## **Section 2- Requirement for Licence: Provision of health care service(s) for the purposes of the NHS**

### **2.1 Do you provide health care service(s) for the purposes of the NHS? (Y/N)**

2.1.1 Do you provide health care service(s) for the purposes of the NHS through a contract directly with a Clinical Commissioning Group and/or NHS England? (Y/N)

2.1.1.1 Do you provide any health care service(s) for the purposes of the NHS through a multi-party contract with Clinical Commissioning Group(s) and/or NHS England and other provider(s)?

2.1.1.2 This question is currently not being used. You must put "n/a" in the field below to be able to continue with your application.

2.1.2 Do you provide health care service(s) for the purposes of the NHS through an arrangement with another provider? (Y/N)

2.1.2.1 This question is currently not being used. You must put "n/a" in the field below to be able to continue with your application.

## **Section 3: Requirement for Licence: Licence Exemptions**

### **3.1 Are one or more of the health care services you provide for the purposes of the NHS, regulated activities for the purpose of registration with the Care Quality Commission under Chapter 2 of Part 1 of the Health and Social Care Act 2008? [Y/N]**

3.1.1 Are you registered with the Care Quality Commission in accordance with Chapter 2 of Part 1 of the Health and Social Care Act 2008 in respect of the carrying out of all regulated activities? [Y/N]

### **3.2 Do all of the health care services you provide for the purposes of the NHS fall into one or more of the categories below? [Y/N]**

- Primary Medical Services
- Primary Dental Services
- NHS Continuing Healthcare
- NHS funded nursing care

3.2.1 Please indicate which of the following health care services you provide for the purposes of the NHS:

- Primary Medical Services [Y/N]
- Primary Dental Services [Y/N]
- NHS Continuing Healthcare [Y/N]
- NHS funded nursing care [Y/N]



**3.3 Is your applicable turnover for the relevant business year £10 million or more? [Y/N]**

**3.4 Do you provide healthcare services for the purposes of the NHS that are designated as Commissioner Requested Services? [Y/N]**

3.4.1 Please provide a list of all commissioners you provide Commissioner Requested Services for with the specified details.

#### **Section 4: Licence: Licensing Grant Criteria**

##### **Registration with the Care Quality Commission**

**4.1 If you have answered Yes to question 3.1.1 above confirming that you are registered for all regulated activities you carry out, please tick a y/n below to confirm all your registered activities**

- Personal care
- Accommodation for persons who require nursing or personal care
- Accommodation for persons who require treatment for substance misuse
- Accommodation and nursing or personal care in the further education sector
- Treatment of disease, disorder or injury
- Assessment or medical treatment for persons detained under the Mental Health Act 1983
- Surgical procedures
- Diagnostic and screening procedures
- Management of supply of blood and blood-derived products
- Transport services, triage and medical advice provided remotely
- Maternity and midwifery services
- Termination of pregnancies
- Services in slimming clinics
- Nursing care
- Family planning services

## **Provider Fitness**

### **4.2 Please provide below the required details for all directors, governors and those performing equivalent or similar functions of:**

- your organisation (which is applying for a licence)
- your corporate director(s) (if applicable)
- the parent body (bodies) of all your corporate director(s) (if applicable)

If you are an individual provider, please provide your own name, surname and date of birth. For 'Function' please select "Equivalent/similar to Director or Governor" and for 'Organisation please select "Applicant Organisation".

<b>First Name</b>	<b>Surname</b>	<b>Date of birth</b>	<b>Function</b>	<b>Organisation</b>

### **4.2.1 Are you a provider who is an individual?**

4.2.1.1 For each category below, state "Yes" if you fall within the category and state "No" if you do not fall within the category:

- you have been adjudged bankrupt, or your estate has been sequestrated, and (in either case) the bankruptcy or sequestration has not been discharged or the bankruptcy order has not been annulled
- you are a person in relation to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986
- you have made a composition or arrangement with, or granted a trust deed for, your creditors and have not been discharged in respect of that composition, arrangement or deed
- within the preceding 5 years ending on the date the application for a licence is made, you have been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months (without the option of a fine) was imposed on you
- you are subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986

### **4.2.2 Are you a provider who is not an individual?**

4.2.2.1 For each category below state "Yes" if one or more individuals who is a director or governor of your organisation (or who performs equivalent or similar functions) falls within the category; state "No" if no such individual falls within the category:

- that person is a person who has been adjudged bankrupt, or whose estate has been sequestrated, and (in either case) the bankruptcy or sequestration has not been discharged or the bankruptcy order has not been annulled
- that person is a person in relation to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986
- that person is a person who has made a composition or arrangement with, or granted a trust deed for, that person's creditors and has not been discharged in

respect of that composition, arrangement or deed

- within the preceding 5 years ending on the date the application for a licence is made, that person has been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months (without the option of a fine) was imposed on that person
- that person is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986

#### 4.2.2.2 Do you have a corporate director?

a) For each category below state “Yes” if one or more individuals who is a director or governor of your organisation’s corporate director (or who performs equivalent or similar functions) falls within the category; state “No” if no such individual falls within the category:

- that person is a person who has been adjudged bankrupt, or whose estate has been sequestrated, and (in either case) the bankruptcy or sequestration has not been discharged or the bankruptcy order has not been annulled
- that person is a person in relation to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986
- that person is a person who has made a composition or arrangement with, or granted a trust deed for, that person’s creditors and has not been discharged in respect of that composition, arrangement or deed
- within the preceding 5 years ending on the date the application for a licence is made, that person has been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months (without the option of a fine) was imposed on that person
- that person is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986

b) For each category below state “Yes” if the corporate director falls within the category; state “No” if the corporate director does not fall within the category:

- that body or its parent body (if it has a parent body) is subject to a proposal for a voluntary arrangement made in accordance with section 1 (those who may propose an arrangement) of the Insolvency Act 1986
- a receiver, including an administrative receiver (within the meaning of section 29(2) (definitions) of the Insolvency Act 1986) has been appointed for the whole or any material part of that body’s or its parent body’s (if it has a parent body) property or undertaking
- an administrator has been appointed in respect of that body or its parent body (if it has a parent body), to manage its affairs, business and property in accordance with section 8 of, and Schedule B1(administration) to, the Insolvency Act 1986
- that body or its parent body (if it has a parent body) has passed a resolution for winding up or is subject to an order of the High Court for winding up under Part IV (winding up of companies registered under the Companies Acts) of the Insolvency Act 1986

#### 4.2.2.3 Do you have a corporate director who has a parent body(s)?

a) For each category below state Yes if one or more individuals who is a director or

governor of your corporate directors' parent bodies (or who performs equivalent or similar functions) falls within the category; state No if no such individual falls within the category.

- that person is a person who has been adjudged bankrupt, or whose estate has been sequestrated, and (in either case) the bankruptcy or sequestration has not been discharged or the bankruptcy order has not been annulled
- that person is a person in relation to whom a moratorium period under a debt relief order applies under Part VIIA (debt relief orders) of the Insolvency Act 1986
- that person is a person who has made a composition or arrangement with, or granted a trust deed for, that person's creditors and has not been discharged in respect of that composition, arrangement or deed
- within the preceding 5 years ending on the date the application for a licence is made, that person has been convicted in the British Islands of any offence and a sentence of imprisonment (whether suspended or not) for a period of not less than 3 months (without the option of a fine) was imposed on that person
- that person is subject to a disqualification order or disqualification undertaking under the Company Directors Disqualification Act 1986

## **Section 5: Care Quality Commission Registration Conditions**

**5.1 Is your registration with the Care Quality Commission subject to any conditions  
If yes please provide details below.**

## **Section 6 - Additional Information Request**

### **Information related to provision of Commissioner Requested Services**

**6.1 Do you have an Ultimate Controller(s)?  
If yes please provide the following details**

Name of Ultimate Controller(s)

Company registration number(s) (if applicable)

Website address(es)

Key contact(s) at Ultimate Controller(s)

Job title

First name

Last name

Address for correspondence

Email address

Business telephone

### **CQC notice of enforcement actions**

**6.2 Are you currently subject to enforcement action by the Care Quality Commission?  
[Y/N]**

If yes please provide details below (including date of issue)

## **Financial Year End**

**6.3 What was the date of your last financial year end?**

**6.4 What is the date of your establishment/ date of incorporation?**

**6.5 If your last financial year was not 12 months please indicate the period it covered.**

**6.6 What is the date of your next financial year end?**

## **Licence previously held/applied for**

**6.7 Have you previously held an NHS Provider Licence? [Y/N]**

If yes please provide details below (including provider name, licence number and date granted)

**6.8 Have you ever made an application for an NHS Provider Licence that was refused? [Y/N]**

If yes please provide details below (including provider name(s), date(s) and reason(s) for refusal of the licence).

**6.9 Have you ever made an application for an NHS Provider Licence that you withdrew before Monitor made its decision as to grant or refusal? [Y/N]**

If yes please provide details below (including provider name(s), date(s) and reason(s) for withdrawal of the application).

## **Section 7- Licence Application Declaration**

### ***General declaration***

*By ticking the box below, I*

- confirm that I have the authority to make this application;*
- confirm that the information provided on the application is accurate, complete and not misleading, to the best of my knowledge and belief;*
- undertake that where information which has been entered on the application is no longer accurate, complete and not misleading, updated information, which is accurate, complete and not misleading, will be provided to Monitor promptly; and*
- acknowledge that Monitor will use the information provided on the application, including personal data, and any other relevant information that Monitor obtains or receives, for the purpose of performing its regulatory functions.*

I accept the above declaration.

### ***Electronic Communications***

By ticking this box I confirm that if I do not consent to the receipt of notices electronically (in

accordance with section 149 of the Health and Social Care Act 2012) or that the email address provided in response to question 1.3 cannot be used for that purpose, I will contact Monitor to communicate this using the contact details in the Guidance.

As you will be submitting this form electronically please type in the authorised person's name below.

Person
Job Title
Email address
Date

*N.B. The declaration above must be completed. If not, we will not be able to consider this application.*



Making the health sector  
work for patients

## Contact us

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