What is your organisation? - Organisation	**Nuffield Health**
Do you think NHS trusts should be exempt from the requirement to hold a licence, but expected to meet equivalent requirements to those in the general, pricing (where appropriate), choice and competition and integrated care sectors of Monitor's licence? - Q1	No
Is there anything you want to add? - Q2	No there have been significant financial and clinical shortcomings across the health system in the UK, where there has been a systemic link between the financial and clinical governance failings in organisations (such as Mid Staffordshire NHS Trust and Four Seasons Care Homes). It therefore seems sensible to use this exercise to positively endorse organisations that are able to meet the required standards to hold a licence. All providers requiring a CQC registration should be required to hold a licence from Monitor, except in the circumstances under Q4 (subject to comments relating to this question below).
Do you agree that it is not appropriate to license small and micro providers of NHS funded services, at this stage, pending further review of costs and benefits? - Q3	No, Proceed to Question 7
If so, do you agree that providers of NHS services with fewer than 50 employees (FTEs) and income from the provision of NHS hospital and community healthcare services of less than £10 million should be exempt from the requirement to hold a licence? - Q4	No
Alternatively, do you think a de minimis threshold based on a provider fulfilling one of the two conditions would be more appropriate (eg. <50 staff (WTEs) or <£10m turnover)? - Q5a	No, proceed to question 6
Alternatively, do you think a de minimis threshold based on a provider fulfilling one of the two conditions would be more appropriate (eg. <50 staff (WTEs) or <£10m turnover)? - Q5b	<£10m turnover
If not, on what basis should small and micro providers be exempt? - Q6	On the basis of both thresholds applying and the revenue threshold being 5 million (not 10 million).
Is there anything you want to add? - Q7	Question 3: A patient should rightly expect that the care they are provided with meets the regulatory standard/s, whether financial or clinical. Regulation is a necessary cost of entry in order to delivery quality of care. The current proposals for a Monitor licence are achievable for small and micro providers, however, to avoid an administrative burden on either Monitor or provider, there should be an element of proportionality to the administrative requirement. For example existing standards which have been met (such as Any Qualified Provider status) should be seen as achieving the General Conditions module of the licence. Modular licensing can then be brought in as the review progresses through 2013, but all providers will have the same starting point. Question 4: Fewer than 50 employees/persons engaged by an organisation or group/holding company (where the organisation has a group/holding company) would be a reasonable level. However, the de minimis level of £10 million revenues would exempt too many such organisations, allowing them to dominate the market, a more reasonable revenue threshold would be £5 million. Question 5: Both thresholds should be satisfied for the exemption to apply, as staff threshold alone may be irrelevant if the majority of staff have no dealings with the NHS business. The provider landscape is presently made up of a mixture of organisations - voluntary, community, private, NHS funded, not-for-profit, social enterprise etc. Attempting to set a threshold to identify those organisations which should have a licence and those which should not can be just as complex as managing the licence process in the first place, and as such is folly. Every effort should be made to licence all providers regardless of the level, with existing qualification standards being mapped across to the Monitor licence to establish an equivalency programme and therefore manage the transition from current standards to the Monitor Licence.
Do you agree that providers of primary medical services and primary dental services under contracts with the NHS Commissioning Board should initially be exempt from the requirement to hold a licence from Monitor? - Q8	No

Is there anything you want to add? - Q9	No, to ensure that the UK health system becomes more integrated for patients it would be helpful to ensure commonality to the regulatory framework for all providers. Whilst individually the primary medical services and dental services may fall below the de minimus threshold, collectively they are a very significant proportion of servicers and managing significant budgets. This group are also likely to represent the greatest variation of standards in management and care.
Do you think providers of adult social care who also provide NHS services should be required to hold a licence, unless they fall below a de minimis threshold? - Q10	No, proceed to question 15
If so, do you think that threshold should be fewer than 50 employees (FTEs) and income from the provision of NHS hospital and community healthcare services of less than £10 million? - Q11	No, Proceed to question 13
Alternatively, do you think a de minimis threshold based on an adult social care provider fulfilling one of the two conditions would be more appropriate (ie <50 staff (FTEs) or <£10m turnover)? - Q12a	No
Alternatively, do you think a de minimis threshold based on an adult social care provider fulfilling one of the two conditions would be more appropriate (ie <50 staff (FTEs) or <£10m turnover)? - Q12c	<£10m Turnover
Do you know of any adult social care providers who also provide NHS services who would not fall below this specific de minimis threshold? - Q13a	
Do you know of any adult social care providers who also provide NHS services who would not fall below this specific de minimis threshold? - Q13b	
If you think there should be a different de minimis threshold, what is that threshold? - Q14	The de minimis level of £10 million revenues would exempt too many such organisations, allowing them to dominate the market, a more reasonable revenue threshold would be £5 million.
Is there anything you want to add? - Q15	The Adult Social Care provision is currently shared between Social Services managed by Local Authorities and the NHS. The boundaries between these organisations is complex and therefore attempting to set a definition to identify those organisations which should have a licence and those which should not can be just as complex as managing the licence process in the first place, and as such is folly. Every effort should be made to licence all providers regardless of the level, with existing qualification standards being mapped across to the Monitor licence to establish an equivalency programme and therefore manage the transition from current standards to the Monitor Licence.
Do you think a 20% threshold would be suitable for the standard condition modification objection percentage? - Q16	Yes
If not, what figure do you think would be suitable? - Q17	Not applicable
Is there anything you want to add? - Q18	None
Do you think the share of supply threshold should be calculated by defining share of supply as the number of licence holders affected by the proposed modification, weighted by NHS turnover? - Q19	Yes
Do you think the threshold itself should be 20% as with the objections percentage? - Q20	Yes
Do you think variations in the costs of providing NHS services should be taken into account when calculating share of supply? - Q21	No
Is there anything you want to add? - Q22	Question 19; Yes the share of supply threshold should be calculated by defining share of supply as the number of licence holders affected by the proposed modification, as dominant or larger organisations could prevent changes in their local market.
Do you think the calculation of turnover for the purposes of the variable monetary penalty maximum should be based on turnover from provision of NHS funded turnover? - Q23	Yes, proceed to question 25

If not, how do you think turnover should be calculated? - Q24	Not applicable
Is there anything you want to add? - Q25	Yes the calculation of turnover for the purposes of the variable monetary penalty maximum should be based on turnover from provision of NHS funded turnover, with a cap of 1% of Turnover.There is a clear tension in this consultation between the need for the financial regulator to ensure that the appropriate standards are in place and promoting choice in the provision of care. The foremost duty of a state financial regulator in a state controlled monopoly market is to protect patients from poor care that may result from a lack of choice or competition. There are many academic economic models to support this in similar sectors (e.g. energy). It is worth remembering that on economic grounds the NHS chooses to use price control (tariff) as a mechanism to prevent profiteering by local monopoly trusts. There is a repeated tendency throughout the document to preserve the status quo with either automatic registration or automatic exemptions which cannot be in the best interests of patients. We would welcome a greater attention to underlying market factors in the debate.
Do you have any evidence that the proposals in this document will impact adversely or unfairly on any protected groups? - Q26a	No
Do you have any evidence that the proposals in this document will impact adversely or unfairly on any protected groups? - Q26b	No evidence