

## **NOTICE OF ADDITIONAL LICENCE CONDITION**

### **LICENSEE:**

Sherwood Forest Hospitals NHS Foundation Trust ("**the Licensee**")  
King's Mill Hospital  
Mansfield Road  
Sutton in Ashfield  
Nottinghamshire  
NG17 4JL

### **DECISION**

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

### **THE LICENCE IS AMENDED AS FOLLOWS:**

After Condition FT4, insert:

#### **"Additional Licence Condition 1 – Additional governance requirements:**

1. The Licensee must ensure that it has in place sufficient and effective Board, management and clinical leadership capacity and capability, as well as appropriate governance systems and processes, to enable it to—
  - a. address the issues specified in paragraph 2 effectively; and
  - b. comply with any discretionary requirement imposed or enforcement undertaking accepted under the 2012 Act in connection with those issues.
2. The issues referred to in paragraph 1 are issues relating to the Licensee's governance, financial governance or operations, including those issues identified in any external reviews, which have caused or contributed to, or are causing or contributing to, or which may cause or contribute to breaches, or the risk of breach of conditions of the Licence.
3. For the purposes of paragraph 1, an issue is addressed effectively only if it is addressed within a reasonable timescale, including any applicable timescale proposed in any external reviews, any discretionary requirement or any enforcement undertaking, or reasonably specified by Monitor."

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

Monitor anticipates that the effect of imposing the additional condition would be as set out below under the heading(s) 'Need for Action' in the section below headed 'Grounds'.

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

No incidental or consequential modifications are required to the Licensee's licence.

### **GROUND(S)**

#### **1. Licence**

The Licensee is the holder of a licence granted under section 87 of the Act.

#### **2. Power to impose additional licence condition(s)**

2.1. Monitor is satisfied that the governance of the Licensee is such that the Licensee will fail to comply with the one or more of the following conditions of the Licensee's licence: CoS3(1)); FT4(4)(a); FT4(4)(b); FT4(4)(c); FT4(5)(a); FT4(5)(b); FT4(5)(c); FT4(5)(d); FT4(5)(f); FT4(5)(g); FT4(6); FT4(7).

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

Monitor believes the additional licence condition described above is required to secure that the breaches in question do not continue or recur.

##### **a) Leadership & governance**

i) Monitor has concerns in respect of leadership and governance, evidenced by the following:

- (1) Following an inspection in April and May 2014 the CQC recommended that the Licensee remain in special measures. Monitor is concerned that insufficient progress has been made by the Licensee to exit special measures on a timely basis;
- (2) The Licensee has failed to comply with its s.105 discretionary requirements, in particular, to fully deliver its Governance plans by 31 October 2013, and to submit a five year financial turnaround plan which is deliverable and reduces the Licensee's underlying deficit and cash requirements year on year on a recurrent basis;
- (3) An external review (finalised in February 2015) of the Licensee's financial plan highlighted deficiencies in the Licensee's planning process. In particular, there are concerns about the Licensee's ability to operationalise the financial plan;
- (4) The Licensee's forecast 2014/15 deficit deteriorated against its 2014/15 financial plan by £4.5m in December 2014, and a further £1.7m in January 2015. The Licensee now has a current forecast outturn 2014/15 deficit of £32.7m. This unforeseen deterioration in the Licensee's financial position raises further concerns about the Licensee's financial governance;

- (5) Based on the information provided by the Licensee to Monitor during February 2015, including draft 2015/16 financial plans submitted on 27 February 2015, Monitor is concerned that the 2015/16 position will significantly worsen from the projected 2014/15 deficit. This raises further concerns about the Licensee's financial governance;
- (6) An external review (finalised in December 2014) of the Licensee against Monitor's Well Led Framework for governance reviews highlighted a number of governance concerns;
- (7) The Licensee has failed to meet the referral to treatment non admitted target in each quarter since Q3 2013/14 and has failed to meet the accident and emergency target in each quarter since Q4 2013/14.

In the light of these matters, and the other available evidence, Monitor is satisfied that the Board is failing to secure compliance with the Licensee's licence conditions and failing properly to take steps to reduce the risk of breaches of those conditions. In these circumstances, Monitor is satisfied that the governance of the Licensee is such that the Licensee is failing and will fail to comply with the conditions of its licence.

Monitor considers that the imposition of the condition specified above is appropriate for reducing the risk of non-compliance identified above.

### 3. Appropriateness of Imposition of Additional Licence Condition

In considering the appropriateness of imposing this additional licence condition, Monitor has taken into account the matters set out in its Enforcement Guidance.

**THE REQUIREMENTS OF THE ADDITIONAL LICENCE CONDITION ARE WITHOUT PREJUDICE TO (i) ANY DISCRETIONARY REQUIREMENTS IMPOSED UNDER SECTION 105 OF THE ACT, (ii) THE REQUIREMENTS OF ANY ENFORCEMENT UNDERTAKING GIVEN BY THE LICENSEE AND (ii) THE REQUIREMENT ON THE LICENSEE TO ENSURE THAT IT IS COMPLIANT WITH ALL THE CONDITIONS OF ITS LICENCE INCLUDING THOSE RELATING TO:**

- **COMPLIANCE WITH THE HEALTH CARE STANDARDS BINDING ON THE LICENSEE; AND**
- **COMPLIANCE WITH ALL REQUIREMENTS CONCERNING QUALITY OF CARE.**

**ANY FAILURE TO COMPLY WITH THE ADDITIONAL LICENCE CONDITION WOULD RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. THIS COULD INCLUDE REQUIRING THE LICENSEE TO REMOVE ONE OR MORE OF THE DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS AND APPOINT INTERIM DIRECTORS OR MEMBERS, SUSPEND ONE OR MORE DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS FOR A SPECIFIED PERIOD AND/OR DISQUALIFY ONE OR MORE DIRECTORS OR MEMBERS OF THE COUNCIL OF GOVERNORS FOR A SPECIFIED PERIOD. THIS COULD INCLUDE ALSO OR INSTEAD ACTION UNDER SECTIONS 105 OR 106 OF THE ACT TO IMPOSE DISCRETIONARY REQUIREMENTS OR ACCEPT**

**UNDERTAKINGS. MONITOR WOULD ALSO BE ABLE TO TAKE ACTION UNDER SECTION 89 TO REVOKE THE LICENSEE'S LICENCE.**

**MONITOR**

Dated 24 April 2015  
2015

Signed

A handwritten signature in black ink, appearing to be 'N. B. Smith', written over a horizontal line.

Chair of the Provider Regulation Executive  
Monitor