

## **ENFORCEMENT UNDERTAKINGS**

### **LICENSEE:**

Heatherwood and Wexham Park NHS Foundation Trust ("the Licensee")  
Wexham Street  
Slough  
Berkshire  
SL2 4HL

### **DECISION**

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, Monitor has decided to accept from the Licensee the enforcement undertakings specified below pursuant to its powers under section 106 of the Health and Social Care Act 2012 ("the Act").

### **GROUND**

#### 1. Licence

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

#### 2. Breaches

##### 2.1. Minimum quality standards

2.1.1. Monitor has reasonable grounds to suspect that the Licensee has provided and is providing health care services for the purposes of the NHS in breach of the following conditions of its licence: FT4(5)(a), (c), (f) and (h) and FT4(7).

2.1.2. In particular:

- 2.1.2.1. The Licensee has been issued with a CQC Warning Notice judging non-compliance with Regulation 10 of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 (the "Regulated Activities Regulations 2010").
- 2.1.2.2. The Licensee has been issued with a CQC report which finds that there is non-compliance with 7 essential standards underpinned by 6 moderate concerns and one major concern.
- 2.1.2.3. Since 2011/12 the Licensee has reported non-compliance with the 4 hr A&E wait target in Q3 and Q4 of 2012/13 and will report non-compliance in Q1 of 2013/14.
- 2.1.2.4. These breaches by the Licensee demonstrate a failure of governance arrangements, in particular but not limited to a failure

by the Licensee to establish and effectively implement systems and/or processes to ensure compliance with health care standards binding on the licensee.

### 2.1.3. Need for action

Monitor believes that the action which the Licensee has undertaken to take pursuant to the undertaking recorded here will secure that the breaches in question do not continue or recur.

### 3. Appropriateness of Undertakings

In considering the appropriateness of accepting in this case the undertakings set out below, Monitor has taken into account the matters set out in its Enforcement Guidance.

### **UNDERTAKINGS**

The Licensee has agreed to give, and Monitor has agreed to accept, the following undertakings, pursuant to section 106 of the Act:

#### Short Term CQC Recovery Plan

1.1. The Licensee will develop and submit to Monitor within 7 days of the publication of the CQC warning notice an effective action plan ("the Short Term CQC Recovery Plan") to ensure the Trust is compliant with Regulation 10 of the Regulated Activities Regulations 2010 by 12 August 2013; and

1.1.1. the following CQC essential standards: outcomes 1, 4, 8, 9, 13, 16 and 21 by 31 October 2013.

1.2. The Short Term CQC Recovery Plan will outline the Licensee's plans and key milestones underpinning a return to sustainable compliance with Regulation 10 and outcomes 1, 4, 8, 9, 13, 16 and 21 and should be updated where relevant to have regard to any findings and recommendations arising from the Risk Summit scheduled for early August 2013.

1.3. The Licensee will deliver the Short Term CQC Recovery Plan.

1.4. By the 12<sup>th</sup> August 2013, the Licensee will provide Monitor with written confirmation that it is compliant with Regulation 10 of the Regulated Activities Regulations 2010. By the 31 October 2013, the Licensee will provide written confirmation to Monitor, that it is compliant with outcomes 1, 4, 8, 9, 13 16 and 21. The Licensee will support the written confirmation with details of the assurances which have been taken into account in making the declarations.

### 2. Quality governance

2.1. The Licensee will commission a review of quality governance within 30 days of the publication of the CQC warning notice and will present its findings to Monitor in writing within 90 days of the publication of the CQC warning notice. The scope of the review must as a minimum report on the reasons for the Licensee failing to effectively address previously identified risks (as reported in the most recent CQC

inspection report) and report on progress in addressing previous recommendations from PwCs Quality Governance Review in December 2012.

- 2.2. The Licensee will develop and submit to Monitor within 100 days of the publication of the CQC warning notice an effective action plan ("the Quality Governance Plan") to ensure that weaknesses identified in the review of quality governance are addressed within timescales to be agreed with Monitor.
  - 2.3. The Quality Governance Plan will outline the Trust's plans and key milestones underpinning the planned improvement in quality governance. Additionally, at the time of submission of the Quality Governance Plan the Licensee will outline its programme of assurance (for example from the internal audit function) to assure itself that the planned quality governance improvements have been sustainably implemented and provide Monitor with the outcomes of these assurances when available.
  - 2.4. The Licensee will deliver the Quality Governance Plan.
3. Ward management
- 3.1. The Licensee will undertake a review of ward management (internal or external) and will present its findings to Monitor in writing within 60 days of the publication of the CQC warning notice. The scope of the review will as a minimum include a diagnosis of the underlying causes of the noted poor practice at ward level (identified by the CQC in its most recent inspection report) and will include, but not be limited to: any significant individual cases of poor practice, weaknesses in culture and the reasons why poor practice at ward level was not addressed by the Licensee's board.
  - 3.2. The Licensee will develop and submit to Monitor within 90 days of the publication of the CQC warning notice an effective action plan ("the Ward Management Plan") to ensure that weaknesses identified in the review of ward level management are addressed within timescales to be agreed with Monitor.
  - 3.3. The Ward Management plan will outline the Trust's plans and key milestones underpinning the planned improvement in ward management. Additionally the Licensee should outline its programme of assurance (for example from the internal audit function) to assure itself that the planned ward management improvements have been made and provide Monitor with the outcomes of these assurances when available.
  - 3.4. The Licensee will deliver the Ward Management Plan.
4. Capacity plans
- 4.1. The Licensee will develop and submit to Monitor within 90 days of the publication of the CQC warning notice an effective action plan ("the Capacity Plan") to ensure that the Trust has sufficient physical, equipment, bed and staff capacity to meet expected non-elective and elective activity demand on a sustainable basis. The Capacity Plan must explicitly deal with ensuring sufficient capacity to meet likely demand over the winters of 2013/14 and 2014/15.
  - 4.2. The Capacity Plan will outline the Trust's plans and key milestones underpinning any change in capacity and an assessment of the financial impact (capital and revenue) of any additional required capacity.

4.3. At the time of the submission of the Capacity Plan, the Licensee will provide Monitor with evidence supporting its future assessment of activity levels and evidence that the planned capacity will lead to sustainable recovery. Assurances should include, but are not limited to, models of activity based on historic trends, external assurances over the validity of activity data and future assumptions and corroboration of capacity and activity findings with key stakeholders.

4.4. The Licensee will deliver the Capacity Plan.

5. Meetings

5.1. The Licensee will implement sufficient programme management and governance arrangements to enable delivery of the recommendations and associated actions in the plans referred to in these undertakings.

5.2. Such programme management and governance arrangements will enable the Board to:

5.2.1. obtain a clear oversight over the progress in delivering the plans;

5.2.2. obtain an understanding of any risks to the successful achievement of the plans and ensure appropriate mitigation of any such; and

5.2.3. hold individuals to account for the delivery of the actions in the plans.

5.3. The Licensee shall attend meetings (or if Monitor stipulates conference calls) with Monitor during the currency of the undertakings detailed in this notice to discuss its progress in meeting those undertakings. These meetings shall take place once a month unless Monitor otherwise stipulates, at a time and place to be specified by Monitor and with attendees specified by Monitor.

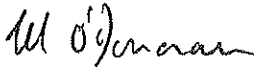
**THE UNDERTAKINGS SET OUT HERE ARE WITHOUT PREJUDICE TO THE REQUIREMENT ON THE LICENSEE TO ENSURE THAT IT IS COMPLIANT WITH ALL THE CONDITIONS OF ITS LICENCE AND ANY EXISTING ENFORCEMENT UNDERTAKING STILL IN FORCE.**

**ANY FAILURE TO COMPLY WITH THE ABOVE UNDERTAKINGS WILL RENDER THE LICENSEE LIABLE TO FURTHER FORMAL ACTION BY MONITOR. THIS COULD INCLUDE THE IMPOSITION OF DISCRETIONARY REQUIREMENTS UNDER SECTION 105 OF THE ACT IN RESPECT OF THE BREACH IN RESPECT OF WHICH THE UNDERTAKING WAS GIVEN AND/OR REVOCATION OF THE LICENCE UNDER SECTION 89 OF THE ACT.**

**WHERE MONITOR IS SATISFIED THAT THE LICENSEE HAS GIVEN INACCURATE, MISLEADING OR INCOMPLETE INFORMATION IN RELATION TO THE UNDERTAKING: (i) MONITOR MAY TREAT THE LICENSEE AS HAVING FAILED TO COMPLY WITH THE UNDERTAKING; AND (ii) IF MONITOR DECIDES SO TO TREAT THE LICENSEE, MONITOR MUST BY NOTICE REVOKE ANY COMPLIANCE CERTIFICATE GIVEN TO THE LICENSEE IN RESPECT OF COMPLIANCE WITH THE RELEVANT UNDERTAKING.**

LICENSEE


Dated 23/7/2013

  
Signed (Chair of Licensee)

MICHAEL O'MONOVAN  
[Name of Signatory]

MONITOR

Dated 24/7/2013

  
Signed (Chair of relevant decision-making committee)

D W BENNETT  
[Name of Signatory]

1. 2. 3. 4. 5. 6. 7. 8.

9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20.