

## 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").

### GROUNDINGS

#### 1. Licence

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

#### 2. Breaches

2.1. 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) and (h) and FT4(6).

#### 2.2. In particular:

2.2.1. Following an inspection in May 2013, the Care Quality Commission ("CQC") issued a warning notice in relation to compliance with provisions of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010 and an inspection report which found non-compliance with 7 essential standards.

2.2.2. Monitor accepted enforcement undertakings from the Licensee on 24 July 2013, which included action to ensure that the breaches of the Licensee's licence demonstrated by that non-compliance did not continue or recur.

2.2.3. Following its follow up inspection of Wexham Park Hospital in October 2013, the Care Quality Commission has served 7 warning notices. Although significant improvements had been made in some areas, the inspection report and notices identify failures to meet the following 8 essential standards: (i) respecting and involving people who use services, (ii) the care and welfare of those who use services, (iii) cleanliness and infection control, (iv) safety and suitability of premises, (v) safety, availability and suitability of equipment, (vi) staffing, (vii) assessing and monitoring the quality of service provision and (viii) records.

2.2.4. Of the failures to meet essential standards, 4 were judged by CQC to have a major impact on patients and 4 were judged to have a moderate impact.

2.2.5. The failures identified by the CQC 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–

- (a) compliance with the Licensee’s duty to ensure compliance with health care standards binding on the Licensee and with applicable legal requirements;
- and
- (b) the matters specified in licence condition FT4(6).

### 2.3. Need for action

Monitor believes that the action which the Licensee has undertaken to take pursuant to the undertakings below is action to 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:

### 1. Action Plan

1.1. The Licensee will prepare a plan (“the Action Plan”) setting out the action to be taken by the Licensee to–

- (a) ensure it is compliant with the provisions of the Health and Social Care Act 2008 (Regulated Activities) Regulations 2010; and
- (b) address the issues which are causing, or contributing to, the breaches of the Licensee’s licence referred to in paragraph 2.1 above (“the licence breaches”).

1.2. The Action Plan will in particular include–

- (a) a review of clinical and ward governance, the scope of which is to be agreed with Monitor;
- (b) action to identify and address those aspects of staff culture at the Licensee which are contributing to the licence breaches, including in particular those in general surgery and maternity; and
- (c) proposals for how the Licensee will demonstrate whether those cultural issues are being addressed effectively.

- 1.3. The Licensee will submit a draft of the Action Plan to Monitor, CQC, NHS England and relevant CCGs by 11th January 2014.
- 1.4. The Licensee will ensure it has in place appropriate project management and governance arrangements, including sufficient resources, to enable it to implement the Action Plan effectively (“the implementation arrangements”) and will submit its proposals for those arrangements to Monitor at the same time as the draft Action Plan.
- 1.5. The Licensee will finalise the Action Plan and its proposals for the implementation arrangements in accordance with Monitor’s response.
- 1.6. The Licensee will implement the Action Plan (as may be amended in agreement with Monitor) in accordance with timescales set out in the Plan.

2. Additional support and assurance

- 2.1. The Licensee will make arrangements to obtain the external support and expertise necessary to enable the Trust to deliver the Action Plan and address the issues which are causing, or contributing to, the licence breaches. The scope of the support and expertise to be provided, and the person or persons providing that support and expertise, will be agreed with Monitor.
- 2.2. The Licensee will work with an Improvement Director appointed by Monitor to provide external assurance of–
  - (a) the Trust’s delivery of the Action Plan; and
  - (b) improvements in the Trust’s governance arrangements and the quality of the care it provides.

3. Meetings

- 3.1. 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 COMPLY WITH THE CONDITIONS OF ITS LICENCE AND THE REQUIREMENTS OF ANY PREVIOUS ENFORCEMENT UNDERTAKING GIVEN BY MONITOR AND ACCEPTED BY MONITOR.

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 BREACHES 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 8 January 2014

Signed

A handwritten signature in black ink, appearing to read "M. O'Donovan".

Mike O'Donovan, Chair of the Licensee

MONITOR

Dated

9/1/14

Signed

A handwritten signature in blue ink, appearing to read "Adrian Masters".

Adrian Masters, acting chair of Provider Regulation Executive committee