

ENFORCEMENT UNDERTAKINGS

NHS TRUST:

Buckinghamshire Healthcare NHS Trust ("the Trust")
Amersham Hospital
Whielden Street
Amersham
Buckinghamshire
HP7 0JD

DECISION

On the basis of the grounds set out below and pursuant to the powers exercisable by NHS Improvement under or by virtue of the National Health Service Act 2006 and the TDA Directions, NHS Improvement has decided to accept undertakings from the Trust.

DEFINITIONS

In this document:

"the conditions of the Licence" means the conditions of the licence issued by Monitor under Chapter 3 of Part 3 of the Health and Social Care Act 2012 in respect of which NHS Improvement has deemed it appropriate for NHS trusts to comply with equivalent conditions, pursuant to paragraph 6(c) of the TDA Directions;

"NHS Improvement" means the National Health Service Trust Development Authority;

"TDA Directions" means the National Health Service Trust Development Authority Directions and Revocations and the Revocation of the Imperial College Healthcare National Health Service Trust Directions 2016.

GROUND

1. The Trust

The Trust is an NHS trust all or most of whose hospitals, facilities and establishments are situated in England.

2. Issues and need for action

2.1. NHS Improvement has reasonable grounds to suspect that the Trust has provided and is providing health care services for the purposes of the health

service in England while failing to comply with the following conditions of the Licence: FT4(5)(a), (b) and (d).

2.2. In particular:

- 2.2.1. In 2017/18 the Trust delivered a negative variance against its control total. The control total for 2017/18 was a deficit of (£2.0m), excluding funding from the Provider Sustainability Fund ("PSF"). The Trust delivered an outturn deficit of (£7.9m), excluding PSF.
- 2.2.2. For 2018/19 the Trust is forecasting a significant negative variance against its control total. The control total for 2018/19 was a deficit of (£2.0m), excluding PSF. The Trust is forecasting a deficit of (£35.0m), excluding PSF.
- 2.2.3. The Trust is in receipt of cash support from the Department of Health and Social Care and does not yet have a financial plan to return to a sustainable financial position.
- 2.2.4. A review by NHS Improvement of the Trust's financial governance dated 26 October 2018 identified concerns regarding the Trust's financial recovery plan and the Board's oversight of the Trust's finances.
- 2.2.5. A review of the finance function by Ameo dated 9 October 2018 identified inefficient financial processes and systems.
- 2.2.6. A review by PwC on 'Financial Recovery Plan, Estates and Payroll Controls and Balance Sheet Opportunities' dated 3 December 2018 identified financial governance concerns in the Estates department.

2.3. These failings by the Trust demonstrate a failure of governance and financial management including, in particular:

- (a) failure to establish and effectively implement systems and/or processes:
 - i. to ensure compliance with the Trust's duty to operate efficiently, economically and effectively.
 - ii. for timely and effective scrutiny and oversight by the Board of the Trust's operations
 - iii. for effective financial decision-making, management and control (including but not restricted to appropriate systems and/or processes to ensure the Trust's ability to continue as a going concern)

2.4. Need for action:

NHS Improvement believes that the action which the Trust has undertaken to take pursuant to these undertakings, is action required

to secure that the failures to comply with the relevant requirements of the conditions of the licence do not continue or recur.

UNDERTAKINGS

NHS Improvement has agreed to accept and the Trust has agreed to give the following undertakings.

1. Financial sustainability

1.1. The Trust will by 30 September 2019 or such other date as agreed with NHS Improvement develop and submit a financial recovery plan ("the FRP"), to be agreed by the Trust Board. The scope and detailed content of the FRP will be agreed with NHS Improvement but will include as a minimum:

- 1.1.1. actions to address the underlying causes of the Trust's deficit, including a high level milestone plan for delivery of the Trust's key schemes to deliver the FRP;
- 1.1.2. the monthly phasing of the Trust's cost savings, and the governance and programme management arrangements to support the delivery of those cost savings;
- 1.1.3. details of extra controls and other measures the Trust has put in place to immediately strengthen financial control, which may relate, for example, to pay and non-pay costs, procurement, cash, delegated financial limits and programme management offices;
- 1.1.4. details of how the Trust will deploy sufficient resources to ensure implementation of the FRP;
- 1.1.5. details of how quality impact will be monitored; and
- 1.1.6. details of the Trust governance arrangements for approval and delivery of the FRP, and how the Trust Board will monitor the implementation of the FRP.

1.2. When developing the FRP, the Trust will engage effectively with key stakeholders, including commissioners, and ensure the FRP is aligned with any system financial recovery plans, and commissioner-led quality impact assessment processes.

1.3. The Trust will, if required by NHS Improvement, commission external support and/or assurance to assist it in developing the FRP. The scope of the support and/or assurance will be agreed with NHS Improvement.

1.4. The Trust will co-operate and work with any Improvement Director(s) who may be assigned by NHS Improvement to provide expertise and support the Trust's delivery of the FRP.

- 1.5. The Trust will implement the FRP in accordance with the timescales in that plan, unless otherwise agreed with NHS Improvement or, if NHS Improvement specifies, demonstrate that it can implement the FRP in accordance with the timescales in the FRP.
- 1.6. The Trust will engage in the system review of the underlying drivers of the system deficit and incorporate any relevant findings into the FRP.
- 1.7. The Trust will engage in a programme of productivity improvement, working with the NHS Improvement Operational Productivity team, and incorporate any opportunities for efficiencies into the FRP.
- 1.8. The Trust will, by a date to be agreed with NHS Improvement, develop and submit an action plan ("the Financial Governance Action Plan") to address the findings and recommendations of the:
 - 1.8.1. NHS Improvement Review of Financial Governance;
 - 1.8.2. PwC report on Financial Recovery Plan, Estates and Payroll Controls and Balance Sheet Opportunities; and
 - 1.8.3. Ameo report on the Finance Function.
- 1.9. The Trust will implement the Financial Governance Action Plan in full and in accordance with the timescales set out in that plan, unless otherwise agreed with NHS Improvement or, if NHS Improvement specifies, demonstrate that it can implement the Financial Governance Action Plan in accordance with the timescales in that plan.

2. Funding conditions and spending approvals

- 2.1. Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Trust under Schedule 5 to the National Health Service Act 2006, the Trust will comply with any terms and conditions which attach to the financing.
- 2.2. Where the Trust receives payments from the Provider Sustainability Fund or Financial Recovery Fund, the Trust will comply with any terms or conditions which attach to the payments.
- 2.3. The Trust will comply with any spending approvals processes that are deemed necessary by NHS Improvement.

3. Programme management

3.1. The Trust will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.

3.2. Such programme management and governance arrangements must enable the board to:

3.2.1. obtain clear oversight over the process in delivering these undertakings;

3.2.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and

3.2.3. hold individuals to account for the delivery of the undertakings.

4. Meetings and reports

4.1. The Trust will:

4.1.1. attend meetings or, if NHS Improvement stipulates, conference calls, at such times and places, and with such attendees, as may be required by NHS Improvement; and

4.1.2. provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

Any failure to comply with the above undertakings may result in the NHS Improvement taking further regulatory action. This could include giving formal directions to the trust under section 8 of the National Health Service Act 2006 and paragraph 6 of the TDA Directions.

THE TRUST

Signed



NEIL MANSFIELD

[Chair or Chief Executive] of Trust

CHIEF EXECUTIVE

Dated:

11th JUNE 2019

NHS IMPROVEMENT

Signed

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

**David Radbourne – Director of Strategy and Transformation and member of the
Regional Support Group (South East)**

Dated: 12 June 2019