

ENFORCEMENT UNDERTAKINGS LICENSEE:

University Hospital of North Midlands (“the Licensee”)
Royal Stoke University Hospital
Newcastle Road
Stoke on Trent
ST4 6QG

DECISION

NHS England, on the basis of the grounds set out below, and having regard to its Enforcement Guidance, 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”).

These undertakings supersede the previous undertakings agreed with NHS England in April 2018. The majority of the breaches identified are reflected in the 2018 undertakings (and have been translated across in line with the new provider licence condition terms, i.e FT4 is now referred to as NHS2) apart from NHS2 (2) NHS (3) (a,d) NHS2 (6) (a,b,d,e,f,g) and NHS2 (7) which NHS England has identified as new breaches following a recent review of the Trust’s current governance and performance.

GROUND

1. Licence

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

2. Breaches

2.1 NHS England has grounds 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: NHS2 (2), NHS2 (3) (a,d), NHS2 (4) (a,b,c), NHS2 (5) (b,c,e,f,g and h), NHS2 (6) (a,b,c,d,e,f,g), NHS2 (7)

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and NHS2 (7) which NHS England has identified as new breaches following a recent review of the Trust's current governance and performance.

2.2 NHS England is now taking regulatory action in the form of undertakings to reflect the current position.

3. Issues:

Quality Improvement - Maternity

3.1 The Licensee has a CQC rating of 'Requires Improvement' overall. Whilst the Trust is rated Outstanding for 'Care' and Good for 'well-led', it has a 'Requires Improvement' rating in 'safe' 'effective' 'responsive' and 'use of resources' areas.

3.2 Under Section 29A of the Health and Social Care Act 2008, the Licensee (Royal Stoke Hospital site) was served a warning notice in relation to 'maternity provision' requiring them to make significant improvements to the safety of the service. CQC found that the service had deteriorated since the last inspection in February 2020 with issues and drivers identified including: access and long waiting times, staff training issues, inconsistent incident reporting processes, lack of embedded processes to triage and prioritise care and treatment for women and birthing people who attended the service.

Staff Survey:

3.3 The 2022 Staff Survey results for the Licensee evidenced a deteriorating position and below the England average for a number of indicators in relation to the 'we are safe and healthy' domain of their staff survey indicating culture challenges to be addressed within the organisation.

3.4 The Licensee is in the lowest quartile of the National Oversight Framework for the staff survey engagement theme score (2022).

Operational performance issues:

3.5 Overall recovery and improvement of the operational performance has been exacerbated by the impact of the covid 19 pandemic, however the licensee's operational performance position is one of the most challenged in the Midlands and is receiving national and regional mandated support.

Urgent and Emergency Care (UEC):

3.6 The Licensee continues to experience significant challenges in relation to sustainable improvements (since December 2018) in delivery of Urgent and Emergency Care (including ambulance handovers and 12 hour breaches), this was particularly impacted by Covid, winter pressures and hospital flow. The Licensee has made efforts to improve performance and both stabilised the position and made improvements in some UEC indicators. However, Accident and Emergency waiting time recovery (the target is 76%) is behind plan (July 2023 -2.7% (69.6%)) and the Licensee continues to have a high number of 12 hour breaches. Although progress has been made with Ambulance Handover performance (average handover time <30minutes YTD). The national standard is currently 95% <15minutes. Whilst NHS England recognises that recent

events, such as the Covid pandemic, have hindered the ability for trusts to achieve these standards, NHS England considers that the Licensee needs to make further progress towards the 4-hour standard, reduce the number of 12 hour breaches and achieve top quartile performance (in the Midlands) for all handovers within 30 minutes or less.

Elective Recovery:

3.8 During Covid, the elective waiting list increased significantly. Elective pressures have been driven by a number of variables including Covid, winter pressures, elective care governance and data quality issues. Despite efforts to improve performance, the Licensee has consistently breached the Elective Recovery standards and continues to report patients waiting in excess of 78, and 104 weeks for treatment.

3.9 The licensee is a regional outlier for elective recovery and remains in Tier 1 National NHSE mandated support. The Licensee has encountered data quality challenges, resulting in significant data accuracy issues, further impacting on the reporting and monitoring of the Licensee's position against its waiting list.

Cancer:

3.10 The Licensee is a regional outlier for its 62-day backlog performance, with the furthest variance from the planned trajectory and limited reduction in the 62 day and 104 day backlog. Lower GI backlog and challenges in diagnostic endoscopy capacity have contributed to this sustained underperformance.

3.11 The Licensee was in the lowest quartile of the National Oversight framework for 62 day waiting times (Month 09) and interquartile range for 'proportion of patients meeting the faster diagnosis standard' at Month 07. Despite significant efforts, further improvements are required to reach a sustainable position against the cancer standards.

Need for action:

Whilst there has been some improvement and development in the above areas (3.1-3.11) by the Licensee, ongoing challenges remain and demonstrate a failure of governance arrangements, in particular:

NHS2(5) the Licensee shall establish and effectively implement systems and/or processes:

- (b) for timely and effective scrutiny and oversight by the Board of the Trust operations;*
- (c) to ensure compliance with healthcare standards binding on the Licensee.*
- (e) to obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;*

NHS England believes that the action, which the Licensee has undertaken to take pursuant to these undertakings, is action to secure that the breaches in question do not continue or recur.

Appropriateness of Undertakings

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

UNDERTAKINGS

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

4.0 Quality Improvement - Maternity

By 31st March 2024 (unless varied by agreement with NHS England), the Licensee will:

- 4.1 Implement an agreed Quality improvement plan that addresses the issues raised by the CQC in the CQC maternity report and in the S29a.
- 4.2 address to the satisfaction of the CQC, the S29a requirements within the timescales set by the CQC
- 4.3 improve its CQC rating for 'safe' in maternity from 'Inadequate' to 'Requires Improvement' by the next CQC inspection
- 4.4 ensure delivery of the Quality Improvement plan relates to Triage, Induction of Labour and Clinical Governance, which will be supported by the System and Region
- 4.5 ensure appropriate Clinical leadership, oversight and assurance arrangements, which follow the requirements of national guidance: <https://www.england.nhs.uk/wp-content/uploads/2020/12/implementing-a-revised-perinatal-quality-surveillance-model.pdf>
- 4.6 actively engage on quality of care with patients, staff and other relevant stakeholders and take into account as appropriate views and information from these sources.

5.0 Staff survey:

By 31st March 2024 (unless varied by agreement with NHS England) the Licensee:

- 5.1 Will provide a formal update on progress against the Licensee's staff survey improvement plan to address the 'culture and leadership' issues identified within its most recent staff survey results.

6.0 Operational Performance Issues:

Urgent and Emergency Care

6.1 The Licensee will take all reasonable steps to recover operational performance to meet and sustain urgent and emergency national standards as set out in agreed improvement trajectories with the national expectation to ensure:

- 6.1.1 Patients being seen more quickly in emergency departments: with the ambition to improve to 76% of patients being admitted, transferred or discharged within four hours by March 2024, with further improvement in 2024/25.

6.1.2 Sustained improvement in Ambulance handovers aiming for top quartile performance (in the Midlands) for all handovers in 30 minutes or less by 31st March 2024.

6.2 By 30th November 2023 (unless varied by agreement with NHS England) the Licensee (UHNM) will produce and submit to NHS England a clinically led program and an ambitious Urgent and Emergency Care (UEC) recovery/improvement plan which forms part of the overarching Staffordshire and Stoke on Trent ICB urgent and emergency recovery plan. NHS England recognises that, in relation to this work, the Licensee has contributed towards the system-wide improvement plan in respect to UEC.

6.3 This plan should clearly detail actions to include:

6.3.1 An evidence-based narrative of the current drivers of performance below the standard for breaching A&E four-hour standard, 1 hour ambulance handover delays and breaches of the 12-hour standard

6.3.2 The Licensee's planned actions, in conjunction with system partners, to improve A&E performance at the Trust, supported by key performance indicators against each action, timescales and the expected impact of each action on overall A&E performance; and

6.3.3 The Licensee's updated trajectory for delivery of the ambulance handover and 12-hour breach standards and how the Licensee will monitor delivery of actions in the UEC Plan.

6.4 The Licensee will, by such date specified within the agreed UEC plan set out clear milestones and a timetable for delivering the UEC Plan with NHS England and will submit to NHS England a monthly Board-approved progress report against delivery until such date as specified by NHS England.

Elective Recovery

6.5 The Licensee will take reasonable steps to achieve compliance against the elective recovery standards in line with agreed trajectories (agreed by NHS England).

6.6 By 30th November 2023 (unless varied by agreement with NHS England) the Licensee will produce an updated single, comprehensive recovery plan which forms part of the overarching Staffordshire and Stoke on Trent Integrated Care Board (ICB) Elective Recovery Improvement plan. This plan should clearly set out how the Licensee will:

6.6.1 Maintain zero 104-week waiters across the Trust's patient tracking list (PTL) in line with trajectories (agreed by NHS England) and this is maintained in line with plan

6.6.2 Achieve zero 78-week waiters and maintain this across the Trust's (PTL) and this is maintained in line with plan

6.6.3 Work towards eliminating waits of over 65-week by end March 2024

6.7 The elective recovery plan will include actions required to meet the requirements of paragraph 6.6 which will:

6.7.1 Include appropriate milestones and a timetable for delivering the Elective recovery plan

6.7.2 ensure the plan describes the key risks and mitigating actions.

6.7.3 be based on realistic assumptions

- 6.7.4 set out key performance indicators which the licensee will use to measure progress against
- 6.7.5 ensure systems and processes are in place to improve elective recovery data quality, PTL management and reporting.
- 6.7.6 submit to NHSE a monthly Board-approved progress report against delivery until such date as specified by NHS England.

Cancer

- 6.8 By 31st November 2023 (unless varied by agreement with NHS England) the Licensee will develop an updated single, comprehensive Cancer recovery plan which forms part of the overarching Staffordshire and Stoke on Trent ICB Cancer Improvement plan. This plan should clearly set out how the Licensee will work towards delivery of sustained improvement in the reduction of the 62-day backlog, and continue to deliver Faster Diagnosis Standard (28-day FDS), in line with an agreed system trajectory and nationally set milestones.
- 6.9 The cancer recovery plan will include actions required to meet the requirements of paragraph 6.8 which will:
 - 6.9.1 Include appropriate milestones and a timetable for delivering the Cancer Recovery Plan
 - 6.9.2 ensure the plan describes the key risks and mitigating actions.
 - 6.9.3 be based on realistic assumptions
 - 6.9.4 set out key performance indicators which the licensee will use to measure progress against
 - 6.9.5 submit to NHSE a monthly Board-approved progress report against delivery until such date as specified by NHS England

7.0 Governance, oversight, capacity and reporting

- 7.1 The Licensee will ensure there is sufficient programme management, governance and internal oversight arrangements to enable delivery of these undertakings.
- 7.2 The Licensee will attend meetings or, if NHS England stipulates, conference calls, at such times and places, and with such attendees, as may be required by NHS England.
- 7.3 The Licensee will provide such reports in relation to the matters covered by these undertakings as NHS England may require.

The undertakings set out above are without prejudice to the requirement on the Licensee to ensure that it is compliant with all the conditions of its licence, including any additional licence condition imposed under Section 111 of the Act and those conditions 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 above undertakings will render the Licensee liable to

further formal action by NHS England. This could include the imposition of discretionary requirements under Section 105 of the Act in respect of the breach which the undertakings were given, and/or revocation of the licence pursuant to Section 89 of the Act.

Where NHS England is satisfied that the Licensee has given inaccurate, misleading or incomplete information in relation to the undertakings: (i) NHS England may treat the Licensee as having failed to comply with the undertakings; and (ii) if NHS England decides so to treat the Licensee, NHS England must by notice revoke any compliance certificate given to the Licensee in respect of compliance with the relevant undertakings.

LICENSEE



TRACY BULLOCK

Signed Chief Executive of Licensee)

Dated: 05.10.23

NHS ENGLAND



Signed

Rebecca Farmer

Director of Strategic Transformation,

West Midlands

Dated: 9.10.2023