

REPLACEMENT UNDERTAKINGS

NHS TRUST:

Shrewsbury and Telford Hospitals NHS Trust (the Trust)
Mytton Oak Road
Shrewsbury
SY3 8XQ

BACKGROUND

NHS Improvement accepted undertakings from the Trust on 5 July 2019 having had reasonable grounds to suspect that the Trust was providing health care services for the purposes of the NHS in breach of the conditions of the licence as set out in the undertakings.

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 these updated undertakings from the Trust. The undertakings replace and supersede all previous 2019 undertakings which covered an Operational Plan - A&E, Financial Plan, Integrated Quality improvement Plan or IQIP, Improvement Director, Buddy Trust and Partner Organisation, Funding conditions and spending approvals, Programme management, and Meetings and reports.

The undertakings build upon the actions which were agreed in consequence of the Trust being placed in special measures for quality in November 2018 (as previously captured in the July 2019 undertakings). They also set out new actions to address issues which have emerged, namely the Ockenden maternity review report and System Oversight, and they capture the NHS Improvement intensive support package agreed in August 2020.

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.

FOUNDATIONS:

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 services for the purposes of the health service in England while failing to comply with the following conditions of the Licence: FT4(5) (a), (c), (d), (f) and (g), FT4(6)(a), (b), (c), (d) (f) and FT4(7).

2.2. In particular:

Operational Performance – A&E

2.2.1. The Trust has not delivered the A&E four-hour maximum waiting time target since July 2013. In 2018/19 performance was below 80% throughout the year. In 2019-20 there was a further deterioration in A&E performance with performance below 70% for the majority of the year. Covid-19 has impacted performance against the 4-hour standard for all organisations but the Trust's performance is significantly lower than the regional average and is therefore still an outlier with a 2020-21 Year-To-Date performance of 69.4%

2.2.2 The Trust has failed to meet the ambulance handover expectation of zero delays. During 2019-20 there were 2,293 handover delays over 1 hour. Up to the end of November 2020-21 there were 1,061 handover delays over 1-hour compared to 1,951 in the same period for 2019-20. Whilst this represents an improvement, it is still an unacceptably high number of delays given that A&E attendances have reduced by 31.5% in the same period.

2.2.3 The Trust has failed to meet the expectation of zero 12-hour Decision To Admit (DTA) breaches. During 2019-20, 1,163 DTA breaches occurred of which 759 were in December and January. Up to the end of November 2020-21, there were 60 12-hour DTA breaches compared to 123 in the same period last year. Whilst this represents an improvement, it is still an unacceptable number of 12-hour DTAs given that emergency admissions have reduced by 29% in the same period.

Financial Performance

2.2.4. The Trust agreed deficit plan of £17.35m (excluding PSF) for 2019/20, however, at month 12, the Trust reported a deficit of £35.30m; £17.95m adverse to plan. This significant variance related to a shortfall in CIP (£7.5m), additional agency usage (£7.6m), additional estates spend (£2.3m) and repayment of CNST rebate relating to maternity (£1.0m).

2.2.5 The Trust submitted a 2020/21 financial plan in March 2020 which was non-compliant. The Trust's planned deficit was £45.19m; an adverse variance to trajectory of £31.57m. As a result of COVID-19 the financial architecture of the NHS changed with the introduction of block contract payments and a retrospective top-up to enable organisations

to break-even from April 2020 to September 2020. The health system was issued with a 'financial envelope' as part of the Phase 3 plan for the period October 2020 to March 2021 and the Trust was required to submit a financial plan with other system partners to deliver a balanced financial position. At month 8, the Trust reported a year to date deficit of £1.7m and a forecast outturn of £7.7m deficit. The Trust's activity performance has deteriorated due to COVID-19, affecting expenditure run-rates, and 'other income' sources have deteriorated. As a consequence, any assessment of financial improvement is currently unclear.

Quality of Care

- 2.2.6 In November 2018, the Trust was rated by the Care Quality Commission (CQC) as 'Inadequate' overall, and specifically across the two domains of safe and well-led. The Trust also received two CQC letters of urgent notice of decision (Section 31) to impose conditions for emergency care and maternity services and a CQC Section 29A warning notice relating to medical, A&E and critical care services. The CQC report dated 29 November 2018 sets out further details of the CQC's inspection findings and its recommendations.
- 2.2.7 In November 2018, NHS Improvement placed the Trust in special measures for quality for reasons outlined in the previous paragraph relating to inadequate care.
- 2.2.8 The Trust failed to address the concerns and actions required by the CQC and the Trust was rated 'Inadequate' again in the CQC Inspection report published on the 8 April 2020. A further CQC Section 31 notice was issued for sub-standard care in emergency services relating to sepsis, paediatrics, mental health, emergency equipment, triage, patient acuity, monitoring across the emergency care patient pathway, staff training and competency.
- 2.2.9 In July 2020, following consideration of CQC's latest views on the Trust, NHS Improvement determined that the Trust required formal, intensive support from a neighbouring NHS Trust. The resulting "Improvement Alliance" is an agreement between NHS Improvement, University Hospitals of Birmingham NHS FT and the Trust. The Improvement Alliance will provide leadership capacity and capability to support the Trust to deliver the necessary improvements in patient safety and service quality. The Improvement Alliance commenced in September 2020 with oversight provided through a Committee in Common structure to enable the development of Quality Improvement Plan.
- 2.2.10 On the 5 October 2020, the CQC removed the Section 31 warning notice for maternity services which it had previously imposed in September 2018, recognising improvements made. However, these improvements have not addressed the outstanding issues referred to in the Ockenden Report 2020 which requires urgent actions as outlined below.

Ockenden review

- 2.2.10 In December 2016 the Secretary of State asked NHS Improvement to establish an independent review of investigations of the initial 23 neonatal and maternal deaths which occurred at the Trust. Donna Ockenden was appointed as the independent panel chair. This investigation has attracted significant media interest and has resulted 1,862 families contacting both Donna Ockenden and the Trust directly about their care. Some of the cases are historical and go back to 1998.

2.2.11 Donna Ockenden published the first of two expected reports on maternity services on 10 December 2020 ('Ockenden Report 2020'). The Ockenden Report 2020 identified 27 local actions for the Trust, plus seven immediate and essential actions for all maternity services across England. The findings show that quality and safety of maternity services at the Trust are of an unacceptable standard.

2.3 These failings by the Trust demonstrate a failure of governance arrangements including, in particular, failure to establish and effectively implement systems or processes to:

2.3.1 ensure compliance with health care standards binding on the Trust;

2.3.2 establish and effectively implement systems and/or processes 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); and

2.3.3 identify and manage material risks to comply with the conditions of the Licence.

2.3.4 ensure adequate oversight by the Board and establishment and implementation of associated governance systems and processes including those relating to clinical quality and to ensure appropriate and sufficient capacity.

2.4 Need for action:

2.4.1 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.

3. Operational Plan - A&E

3.1 The Trust will produce an updated single, comprehensive recovery plan ('the A&E Plan') to achieve a minimum of 85% against the A&E standard. This plan should clearly set out how long waits in ED will be addressed and 12-hour DTAs eradicated. Fully addressing these areas must result in ambulance handovers delays over 1 hour eradicated. The deadline for compliance on a sustainable basis will be agreed with NHS Improvement. The A&E Plan will be submitted to NHS Improvement by a date to be agreed with NHS Improvement.

3.2 The A&E Plan will include, in particular:

3.2.1 An evidence-based narrative of the current drivers of performance below the A&E standard;

3.2.2 The Trust's planned actions, in conjunction with system partners, to improve A&E performance at the Trust, including those which address the recommendations of NHS

Improvement's clinical lead, supported by key performance indicators against each action, timescales and the expected impact of each action on overall A&E performance; and

3.2.3 The Trust's updated trajectory for delivery of the A&E standard and how the Trust will monitor delivery of actions in the A&E Plan.

3.3 The Trust will, by such date as specified by NHS Improvement, agree on milestones and a timetable for delivering the A&E Plan with NHS Improvement and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS Improvement.

3.4 The Trust will ensure it has sufficient capacity and capability to deliver the A&E Plan. Where deemed by NHS Improvement to be required, the Trust will obtain external support from sources and according to a scope and timescale to be agreed with NHS Improvement.

3.5 The Trust will work with system partners to review and strengthen system governance with regards to A&E in such timescales as agreed with NHS Improvement.

3.6 The Trust will take all other reasonable steps to deliver compliance with the A&E standards on a sustainable basis within a timeline to be agreed with NHS Improvement.

3.7 The Trust must ensure that all capital schemes to support A&E operational delivery have a clear programme of work to ensure delivery by the agreed implementation date with NHS Improvement.

3.8 If required by NHS Improvement, the Trust will commission an external review to assure that the A&E Plan has been appropriately implemented. The scope, source and timing of the reports will be agreed with NHS Improvement.

4. Financial Plan

4.1 The Trust will continue to operate within the financial regime requirements of 2020/21 in line with the national response to the COVID-19 pandemic. This includes working with system partners to deliver a balanced financial position for months 7-12 of 2020/21.

4.2. The Trust will produce detailed analysis to identify the current underlying position, a normalised run-rate and operational expenditure forecast for 2020/21. This will include an appraisal to outline the reintroduction of any paused CIP plans.

4.3 The Trust will comply with planning guidance issued by NHS Improvement for the 2021/22 financial year; with the aim of improving the Trust's underlying financial position (as measured by the recurrent income and expenditure position) and achieving the agreed financial trajectory for the year.

4.4 The 2020/21 and 2021/22 financial plans will include phasing, actions and timeframes which will be reviewed at monthly and quarterly meetings which are scheduled between the Trust and NHS Improvement.

4.5 The Trust will develop a financial recovery plan (FRP), quality assured and approved by its Board and that is agreed and meets a series of requirements set by NHS Improvement.

4.6 The scope and detailed content of the FRP will be agreed with NHS Improvement. It is likely to include:

- 4.6.1 Actions to address key financial issues, with a high-level milestone plan
- 4.6.2 A monthly profile of underlying and planned financials including the phasing of efficiencies
- 4.6.3 Details of extra controls to strengthen financial control
- 4.6.4 Details of how the Trust will deploy sufficient resources to ensure implementation of the FRP
- 4.6.5 A description of systems and processes the Board will use to gain assurance on delivery of the FRP
- 4.6.6 Details of the Trust governance arrangements for approval and delivery of the FRP

4.7 The FRP will cover a sufficient timeframe to return the Trust to a breakeven position. When developing the plan, The Trust will engage effectively with key stakeholders, including commissioners and the wider health system.

4.8 The FRP is subject to review and approval by NHS Improvement.

4.9 The Trust will work with system partners and NHS Improvement to refresh the Shropshire and Telford & Wrekin STP financial strategy in conjunction with the system improvement plan.

5. Funding conditions and spending approvals

5.1 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.

5.2 The Trust will comply with any spending approvals processes that are deemed necessary by NHS Improvement.

6. Quality Improvement Plan or QIP

6.1. The Trust is required to take all reasonable steps to address the concerns as identified in the CQC's reports since 2018, including carrying out the actions set out in the reports in accordance with such timescales as determined by the CQC in relation to the required notices and enforcement actions such that, upon re-inspection by the CQC, the Trust will no longer be found to be 'inadequate' in any of the CQC domains.

6.2. By dates to be agreed with NHS Improvement, the Trust will update its previous quality improvement plan ("the Quality Improvement Plan or QIP") including demonstrating that it has sufficient capacity at both executive and other levels of management to enact the QIP. The updated QIP is known locally as "Getting to Good".

6.3 To ensure that the plan is deliverable, significant resource and support and been provided by NHS Improvement. The Trust will fully engage with the bespoke expertise and capacity which is being provided including:

- Senior Nursing support for CQC and Medical Engagement, Nursing Professional Standards, Ward Accreditation lead
- Deputy Directors - Leadership and Development / Improvement UEC Pathways / coordination of CQC action plan.
- Operational support for HR / PMO teams.
- Part time Maternity Improvement Plan / Ockendon Programme Lead
- Making Data Count training and support.

- 6.4 The Trust will ensure that the delivery of the QIP and other measures to improve quality and operational performance do not compromise its overall financial position. The Trust will keep the financial cost of its quality improvements under close review and will notify NHS Improvement as soon as practicable of any matters which are identified as potentially having a material impact the Trust's overall financial position.
- 6.5 The Trust will, by such date as specified by NHS Improvement, agree on milestones and a timetable for delivering the QIP with NHS Improvement and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS Improvement.
- 6.6 The Trust will ensure it has sufficient capacity and capability to deliver the QIP. Where deemed by NHS Improvement to be required, the Trust will obtain external support from sources and according to a scope and timescale to be agreed with NHS Improvement.
- 6.7 The Trust will work with system partners to review and strengthen system governance with regards to Quality oversight in such timescales as agreed with NHS Improvement.
- 6.8 The Trust will take all other reasonable steps to deliver compliance with a set of improvement metrics to be agreed with NHS Improvement, on a sustainable basis within a timeline to be agreed with NHS Improvement.
- 6.9 If required by NHS Improvement, the Trust will commission an external review to provide assurance that the QIP has been appropriately implemented. The scope, source and timing of the reports will be agreed with NHS Improvement.
- 6.10 The Trust will arrange with NHS Improvement, and with local partners, a series of clinical visits each quarter to review and assess progress against the implementation of the QIP. The scope and the review team will be agreed by NHS Improvement.

7. Maternity Services

- 7.1 By dates to be agreed with NHS Improvement, the Trust will develop a comprehensive Maternity Action Plan to address the recommendations in the Ockenden Report 2020. The Maternity Action Plan must be agreed by all key stakeholders and will form a key part of the wider "Maternity Transformation Programme" which is integral to the Trust's "Getting to Good" overarching improvement plan. The Action Plan should also include full compliance against Saving babies Lives Care Bundle 2 and CNST.
- 7.2 The Trust will enter into a formal management agreement with another Trust that NHS Improvement will identify, specifically for maternity services support. This Trust will be a maternity provider which is safe, effective, well-led and compassionate. This Trust will also set

the benchmark for clinical standards and support SaTH to develop clinical leadership and managerial capability, along with changes to working practices and culture.

- 7.3 The Trust will be required to complete an assessment against the 27 local recommendations and 7 immediate actions in the Ockenden Report 2020 and take action to address the outstanding areas of practice, including a clear risk analysis which also identifies the necessary mitigations. In doing so the Trust should take full account of the letter sent out on Monday 14 December 2020 by NHS Improvement's Chief Operating Officer, Chief Nursing Officer and Medical Director which clearly sets out the next steps and requirements for all NHS Trusts in response to the Ockenden Report 2020.
- 7.4 The Trust must develop a comprehensive engagement plan by a date as specified by NHS Improvement that evidences how the Trust is ensuring that families are listened to and that their voices are heard. NHS Improvement expects the Trust to evidence how this engagement is impacting on the quality of maternity services.
- 7.5 The Trust must continue to engage and work with its identified "Maternity Improvement Advisor" which has been appointed by NHS Improvement to ensure maternity services make sustainable and embedded changes from frontline staff through to the Trust Board.
- 7.6 The Trust will, by such date as specified by NHS Improvement, agree on milestones and a timetable for delivering the Maternity Action Plan with NHS Improvement and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS Improvement.
- 7.7 The Trust will ensure it has sufficient capacity and capability to deliver the Maternity Action Plan. Where deemed by NHS Improvement to be necessary, the Trust will obtain external support from sources and according to a scope and timescale to be agreed with NHS Improvement.
- 7.8 The Trust will work with system partners to review and strengthen system governance with regards to maternity in such timescales as agreed with NHS Improvement.
- 7.9 The Trust will take all other reasonable steps to deliver compliance with a set of maternity improvement metrics to be agreed with NHS Improvement, on a sustainable basis within a timeline to be agreed with NHS Improvement.
- 7.10 The Trust will provide progress updates to NHS Improvement as detailed below:
 - 7.10.1 Fortnightly maternity reviews to establish what further support may be required by the Trust to address outstanding issues of substandard care in maternity services
 - 7.10.2 Monthly regional reviews to measure progress against the Maternity Action Plan
 - 7.10.3 Quarterly NHS Improvement Board to System meetings to review how the leadership of the system is working cohesively to ensure delivery of the required improvements
- 7.11 The Trust will co-operate and facilitate staff focus groups to be led by NHS Improvement on a bi-monthly basis to review the Trust's leadership development approach in relation to maternity services. The Trust will provide to NHS Improvement its maternity staff pulse surveys for review by NHS Improvement and will act on feedback given by NHS Improvement.

7.12 If required by NHS Improvement, the Trust will commission an external review to provide assurance that the Maternity Action Plan has been appropriately implemented. The scope, source and timing of the reports will be agreed with NHS Improvement.

8. System Oversight

8.1 The Trust will work with system partners to ensure delivery of the System Improvement Plan which has been developed in response to the issues raised by CQC and identifies actions for all system partners which are aimed at supporting the Trust.

8.2 The Trust will work openly and in collaboration with system partners to ensure that all necessary information is available to provide robust system oversight on the quality and safety of services including progress and delivery against the Quality Improvement Plan / other plans.

9. Improvement Alliance

9.1 The Trust will co-operate and work with the University Hospital of Birmingham NHS FT, as set out in the signed improvement alliance management agreement, which aims to:

- 9.1.1 support and provide expertise to the Trust; and
- 9.1.2 address the identified quality concerns
- 9.1.3 develop and implement the Quality Improvement Plan

10. Improvement Director

10.1. The Trust will co-operate and work with an Improvement Director(s) to oversee and provide independent assurance to NHS Improvement on the Trust's delivery to improve the quality of care the trust provides.

11. Programme management

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

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

- 11.2.1. obtain clear oversight over the process in delivering these undertakings;
- 11.2.2. obtain an understanding of the risks to the achievement of the undertakings and ensure appropriate mitigation; and
- 11.2.3. hold individuals to account for the delivery of the undertakings.

11.3. The Trust will provide to NHS Improvement direct access to its advisors, programme leads, and the Licensee's board members as needed in relation to matters covered by these undertakings.

12. Meetings and reports

12.1. The Trust will 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.


12.2. The Trust will provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

12.3. The Trust will attend monthly oversight and assurance meetings, and executive calls with NHS Improvement to discuss its progress in the required actions as set out in this document.

Any failure to comply with the above undertakings may result in 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



Chief Executive

Dated 19 / 03 / 2021

NHS IMPROVEMENT

Signed



Fran Steele
Director of Strategic Transformation – North Locality

Dated 19/01/2021