

ENFORCEMENT UNDERTAKINGS

LICENSEE

The Bradford Teaching Hospitals NHS Foundation Trust (“**the Licensee**”)
Bradford Royal Infirmary
Duckworth Lane
Bradford
BD9 6RJ

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”).

GROUND

1. Licence

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

BREACHES

2. Governance

2.1. NHS England has reasonable grounds to suspect that the Licensee has provided and is providing healthcare services for the purposes of the NHS in breach of the following conditions of its licence: NHS2.2, 2.4, 2.5(a), (b), (d) and (f) and 2(6).

2.2. NHS England has in particular considered the following matters:

2.2.1. The Licensee commissioned an independent review in January 2023 further to governance and leadership concerns including those raised by the former chair. In September 2023, the review report concluded a number of recommendations and actions that necessitated action by the Licensee.

2.2.2. The former chair wrote a public letter on 3 October 2023 referencing nine areas of concern. The former chair subsequently resigned on 3 October 2023 citing a number of clinical quality and governance concerns. Interim governance arrangements were put in place pending appointment of replacement Chair.

2.2.3. In response to a series of Rapid Quality Review meetings held in response to concerns which included the management of a cohort of serious incidents, NHS England agreed to establish a Quality Improvement Group (QIG) in December 2023. Although the QIG received appropriate assurances on the safety of the

neonatal service, the establishment of the QIG indicated the need for intensive assurance and improvement action, necessitated by the serious and ongoing nature of the quality concerns relating to the Licensee's services

2.2.4. Also, following the chair's resignation, there has been subsequent deterioration in relationships between members of the Board and a series of complaints, including in relation to culture and behaviour, made by some members against others. As a result, there are a number of separate on-going investigations in relation to concerns raised about different members of the Board. The complaints and investigations, and the deterioration in board relationships, give rise to significant concerns as to how the Board is operating and the potential impact of these issues on the effective functioning of the Board and its oversight and scrutiny of the Licensee's operations.

2.2.5. The Care Quality Commission (CQC) is also in the process of carrying out three inspections relating to Medical Care, Maternity & Neonatal, and "Well-Led". NHS England understand the inspections have been instituted following concerns raised with the CQC about the Licensee's services and governance.

2.2.6. The Licensee's annual planning indicates that it will be in deficit at the end of financial year 2024/25 by around £14m. NHS England is concerned this indicates a deterioration of effective financial decision-making and control, and that further action is required by the Licensee to address the financial position.

2.3. Taken together, these matters provide grounds to conclude there have been governance failures including, in particular, failure to:

2.3.1. apply those principles, systems and standards of good corporate governance which reasonably would be regarded as appropriate for a provider of health care services to the NHS; and

2.3.2. effectively implement:

(a) effective board and committee structures;

(b) systems and processes:

a. to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;

b. for timely and effective scrutiny and oversight by the Board of the Licensee's operations;

c. for effective financial decision-making, management and control; and

d. to identify and manage material risks to compliance with the Conditions of its Licence.

2.4. Need for action

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.

3. Appropriateness of Undertaking

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:

1. Governance

- 1.1 The Licensee will commission a review of Board leadership and governance, which will include consideration of relevant actions which may be required in the light of the outcome of the investigations into complaints raised by Board members and the CQC Well Led review. The scope and timescales for initiation and completion to be agreed with NHS England.
- 1.2 The Licensee will implement the recommendations of the review, within such time as agreed with NHS England.
- 1.3 The Licensee will co-operate fully with any individuals selected or appointed by NHS England to provide support or additional capacity and capability to the Board or executive leadership of the Licensee.
- 1.4 The Licensee will implement sufficient governance arrangements to enable delivery of these undertakings. Such governance arrangements must enable the board to:
 - 1.4.1. obtain clear oversight over the process in delivering these undertakings;
 - 1.4.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
 - 1.4.3. hold individuals to account for the delivery of the undertakings.

2. Meetings and reports

- 2.1. The Licensee will attend meetings or, if NHS England stipulates, conference or on-line calls, at such times and places, and with such attendees, as may be required by NHS England.
- 2.2. 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 in respect of 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



Signed: Mel Pickup, Chief Executive Officer, Bradford Teaching Hospitals NHS FT

Dated: 6th August 2024

NHS ENGLAND



Signed: Robert Cornall, Interim Chair of the Regional Support Group (North East & Yorkshire)

Dated: 6th August 2024