

## **REPLACEMENT ENFORCEMENT UNDERTAKINGS 2024**

### **NHS TRUST:**

Shrewsbury and Telford Hospital NHS Trust ('the Licensee')  
Mytton Oak Road  
Shrewsbury  
SY3 8XQ

### **DEFINITIONS**

In this document:

"the conditions of the Licence" means the conditions of the licence held by providers of NHS services, including NHS Trusts, under Chapter 3 of Part 3 of the Health and Social Care Act 2012;

"NHS Improvement" means the organisation comprising National Health Service Trust Development Authority and Monitor. NHS Improvement was abolished and its functions transferred to NHS England on 01 July 2022 by the Health and Care Act 2022. Any reference to NHS Improvement should be taken to mean NHS England.

### **BACKGROUND**

NHS Improvement accepted Undertakings from the Trust on 19 March 2021 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.

Undertakings were reviewed, replaced and superseded in 2022, with compliance certificates issued in respect of the Improvement Alliance requirements and aspects of maternity services requirements. The 2022 replacement Undertakings have been reviewed in 2024: further compliance certificates have been issued for Undertakings relating to the Trust's quality improvement plan and the Trust's maternity services. The Undertakings below replace and supersede the remaining 2022 Undertakings.

### **DECISION:**

NHS England, on the basis of the grounds set out below and pursuant to its powers under the National Health Service Act 2006 as amended, has decided to accept these updated Undertakings from the Trust.

The below Undertakings replace and supersede the remaining Undertakings which covered an Operational Plan - A&E, Financial Plan, Funding Conditions and Spending Approvals, Quality improvement Plan or QIP, Improvement Director, Programme management, and Meetings and reports.

## **DEFINITIONS:**

In this document:

“the conditions of the Licence” means the conditions of the licence held by providers of NHS services under Chapter 3 of Part 3 of the Health and Social Care Act 2012 which NHS England expects the Trust to comply with;

“NHS Improvement” means the National Health Service Trust Development Authority, which was abolished and its functions transferred to NHS England on 1 July 2022 by the Health and Care Act 2022.

## **GROUNDINGS:**

### **1. The Licensee**

The Licensee 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 England has reasonable grounds to suspect that the Licensee 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 updated in 2023: NHS2(5) (a), (c), (d), (f) and (g), NHS2(6)(a), (b,) (c), (d) (f) and NHS2(7) (these conditions were previously referred to as FT4(5), (6) and (7) under the old Licence before it was revised).

Concerns regarding the Licensee's operational and financial performance form part of a wider concern regarding the operational and financial performance within the Shropshire, Telford and Wrekin ICS. These Undertakings are to be linked with – and should be reviewed concurrently with - the equivalent Undertakings in place for the ICB.

2.2. In particular:

#### ***Quality of Care***

2.2.1 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. NHS Improvement placed the Trust in special measures for quality for reasons relating to inadequate care.

2.2.2 The latest CQC Inspection report, published 15 May 2024, recognises that SaTH has made progress and demonstrated significant improvement. The overall trust rating has improved from 'Inadequate' to 'Requires Improvement'.

2.2.3 However, the Licensee has failed to meet the required standard of care for patients accessing the Urgent and Emergency Services, namely both Royal Shrewsbury Hospital (RSH) and Princess Royal Hospital (PRH), were CQC rated inadequate for 'Responsive' domain, with PRH Inadequate overall for Urgent and Emergency services. A Channel 4 "Dispatches" programme, broadcast on Monday 24 June, also highlighted particular quality concerns in the delivery of services in the Emergency Department at Royal Shrewsbury Hospital, consistent with CQC findings.

### ***Operational Performance – Urgent and Emergency Care***

2.2.4 The Licensee has failed to meet the recovery standard in 2023/24 for the four-hour EAS performance achieving 60% vs and ambition of 76% with ED flow metrics representing a similar position. The proportion of patients spending >12 hours from arrival in the department exceeded 20% at points throughout the year despite seeing a remarkable improvement in initial triage <15minutes c.35% to 55%, it was also reported that STW held the highest number of patients spending >72hrs in the department (following decision to admit) nationally.

### ***Financial Performance***

2.2.5 2023/24, the Licensee forecast was an outturn deficit of £100.1m which is an adverse variance of £45.5m against its plan, after discounting the impact of the unplanned deficit funding.

2.2.6 For 2024/25 the Licensee has submitted a significant deficit plan of £44.3m and the overall financial challenge for the Licensee is expected to be considerable, requiring ongoing support from NHS England.

2.2.7 System financial sustainability planning has not yet identified a full set of deliverable milestones for recovery, via the 2024/25 the Financial Recovery Plan. External support from NHS England will continue throughout 2024/25.

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

2.2.8.1 ensure compliance with health care standards binding on the Licensee;

2.2.8.2 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 Licensee's ability to continue as a going concern); and

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

2.2.8.4 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.

### 2.3 Need for action:

2.3.1 NHS England believes that the action which the Licensee 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.

2.3.2 The Licensee will take all reasonable steps to deliver compliance with a set of improvement metrics to be agreed with NHS England, on a sustainable basis within a timeline to be agreed with NHS England.

## UNDERTAKINGS

NHS England has agreed to accept, and the Trust has agreed to give the following Undertakings.

### 3. Quality Improvement Plan or QIP

- 3.1. The Licensee is required to take all reasonable steps to address the concerns as identified in the CQC's reports ((latest May 2024), 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 Licensee will no longer be found to be 'inadequate' in any of the CQC domains at service and organisational level.
- 3.2. By dates to be agreed with NHS England, the Licensee will update its previous quality improvement plan ("the Quality Improvement Plan or QIP"). The Licensee to ensure that it has sufficient capacity at both Executive and other levels of management to enable delivery of the Quality improvements.
- 3.3 The Licensee will, by such date as specified by NHS England, agree on milestones and a timetable for delivering the QIP with NHS England and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS England.

- 3.4 To ensure that the plan is deliverable, support will be provided by NHS England. The Licensee will fully engage with the bespoke expertise and capacity which is being provided.
- 3.5 The Licensee 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 England as soon as practicable of any matters which are identified as potentially having a material impact the Trust's overall financial position.

#### **4. Operational Plan – Urgent and Emergency Care**

- 4.1 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:
  - 4.1.1 Patients being seen more quickly in emergency departments: with the ambition to improve to 78% of patients being admitted, transferred or discharged within four hours by March 2025, with further improvement in 2025/26, this is also to be in line with the 2-year Integrated Improvement plan (IIP), which hopefully should be published in Nov 24.
  - 4.1.2 Sustained improvement in Ambulance handovers by 50% at March 2025, taking March 2024 as baseline.
  - 4.1.3 Reduction in patients spending more than 12 hours from arrival in the Emergency Department to <5% by March 2025.
- 4.2 The Licensee will work closely with the ICB to provide a comprehensive, system-wide UEC Improvement plan ("the Improvement Plan") by a date to be agreed with NHS England which demonstrates the appropriate Trust and system actions and controls in place for improving UEC access, quality and performance across the whole UEC pathway. This will include an outline of how the Licensee delivers the internal improvements in flow, clinical practice and reductions in escalation capacity required.
- 4.3 The Licensee will, working with system providers and ICB, keep the Improvement Plan under continuous review and will update it as required. Any proposed updates will be subject to review and approval by NHS England.

#### **5. Financial Plan**

- 5.1 The Trust will work with its partner NHS Trusts and NHS Foundation Trusts (system providers) and STW ICB to develop a single time-bound Recovery Plan ("the Recovery Plan"), by a date to be agreed with NHS England, that brings together the ICB, provider and additional system wide recovery initiatives. The Recovery Plan should be agreed with NHS England and should:

- 5.1.1 Reflect NHS England planning guidance including for 2024/25 and any subsequent years as guidance is issued;
  - 5.1.2 Demonstrate recurrent financial improvement to the system NHS partners underlying deficit, reduce the system monthly deficit run-rate, preserve cash and minimise the overall deficit;
  - 5.1.3 Include a high-level milestone plan for the Trust to return to a breakeven financial position in accordance with timeframes agreed with NHS England;
  - 5.1.4 Include actions to address the key financial issues, including expenditure on workforce costs and efficiency delivery, with a high-level milestone plan for the Licensee to return to a breakeven financial position;
  - 5.1.5 Establish immediate financial and operational grip and control actions, followed by transformational initiatives and options such as financially sustainable clinical services, clinical support services and corporate services.
- 5.2 The Licensee will, working with the ICB and other system providers, keep the Recovery Plan under continuous review and will update it as required. Any proposed updates will be subject to the review and approval by NHS England.
- 5.3 Financial plans will be reviewed at fortnightly, monthly and quarterly meetings scheduled between the Licensee and NHS England. The Licensee will produce detailed analysis to continue to monitor the current underlying position, monthly run-rate and operational expenditure forecast for 2024/25.
- 5.4 The Licensee will develop and deliver capital plans in line with capital allocation for the Hospital Transformation Programme (HTP).

## **6. Funding Conditions and Spending Approvals**

- 6.1 Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Licensee under Schedule 5 to the National Health Service Act 2006, the Licensee will comply with any terms and conditions which attach to the financing.
- 6.2 The Licensee will comply with any reporting requests made by NHS England in relation to any financing to be provided to the Trust by the Secretary of State for Health pursuant to schedule 5 to the NHS Act 2006.
- 6.3 The Licensee will comply with any spending approvals processes that are deemed necessary by NHS England.

## **7. System Oversight**

- 7.1 The Licensee will work with system partners, including the ICB, to ensure delivery of the System Improvement Plan which has been developed in response to the issues

raised by NHS England and identifies actions for all system partners which are aimed at supporting the Licensee and addressing the challenges which have placed the system in the Recovery Support Programme

- 7.2 The Licensee 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 System Improvement Plan and other plans.

## **8. Programme management**

- 8.1. The Licensee will implement sufficient programme management and governance arrangements to enable delivery of these Undertakings.

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

- 8.2.1. obtain clear oversight of progress in delivering these Undertakings;
- 8.2.2. obtain an understanding of the risks to the achievement of the Undertakings and ensure appropriate mitigation; and
- 8.2.3. hold individuals to account for the delivery of the Undertakings.

- 8.3. The Licensee will provide to NHS England direct access to its advisors, programme leads, and the Licensee's board members as needed in relation to matters covered by these Undertakings.

- 8.4 The Licensee will ensure it has sufficient capacity and capability to deliver the improvement plans referenced above. Where deemed by NHS England to be necessary, the Licensee will obtain external support from sources and according to a scope and timescale to be agreed with NHS England.

## **9. Meetings and reports**

- 9.1. 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.

- 9.2. The Licensee will provide such reports in relation to the matters covered by these Undertakings as NHS England may require.

- 9.3 The Licensee will attend monthly oversight and assurance meetings, and executive calls with NHS England 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 England taking further regulatory action. This could include giving formal directions to the Licensee under section 27B of the National Health Service Act 2006.

## THE LICENSEE

Signed

A handwritten signature in black ink, appearing to be 'L. Brunt'.

Chair or Chief Executive Officer of The Shrewsbury and Telford Hospital NHS Trust

Dated 29/082024

## NHS ENGLAND

Signed

A handwritten signature in black ink, appearing to be 'Rebecca Farmer'.

Rebecca Farmer  
Director of System Co-ordination and Oversight – Midlands

Dated 29/08/2024