

APPENDIX A

ENFORCEMENT UNDERTAKINGS

LICENSEE:

East Lancashire Hospitals NHS Trust ("the Licensee")
 Casterton Avenue
 Burnley
 BB10 2PQ

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

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

2. Breaches

2.1 NHS England has reasonable grounds to suspect 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:

2023 Licence	Summary of condition
NHS2(5)(a), (b), (d), (e), (f) and (g)	<p>The Licensee shall establish and effectively implement systems and/or processes:</p> <ul style="list-style-type: none"> (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;

	<p>(d) 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);</p> <p>(e) to obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;</p> <p>(f) to identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the conditions of its licence;</p> <p>(g) to generate and monitor delivery of business plans (including any changes to such plans) and to receive internal and where appropriate external assurance on such plans and their delivery.</p>
NHS2(7)	The Licensee shall ensure the existence and effective operation of systems to ensure that it has in place personnel on the Board, reporting to the Board and within the rest of the Licensee's organisation who are sufficient in number and appropriately qualified to ensure compliance with the Licence conditions.
CoS3	The Licensee shall at all times adopt and apply appropriate systems and standards of corporate governance and financial management.

3. Financial sustainability and governance

3.1 In particular:

- 3.1.1 the Licensee's financial position is significantly adrift from plan at Month 8 2024/25 by £24.5m.
- 3.1.2 there is a significant increasing underlying deficit of concern. At Month 8, the year-to-date deficit (excluding deficit support funding) is £54.1m and the projected forecast outturn deficit is £85m. There is under delivery of efficiency savings, with only £17.3m of savings delivered against a full year target of £59.8m, raising significant issues relating to the Licensee's financial governance.
- 3.1.3 the scale of the Licensee's financial deficit, being the largest across the Lancashire and South Cumbria Integrated Care System, and the variance in relation to annual financial planning, indicates serious concerns regarding effective decision-making and control and that further action is required by the Licensee to address its financial position.
- 3.1.4 PWC, through the Financial Diagnostic Review conducted across the Lancashire and South Cumbria System in December 2024 and initial Improvement and Assurance Group (IAG) meetings and management

review, have also indicated concerns in leadership and governance at the Licensee, which included a lack of timely financial assurance received by the Board, which led to an inability to effectively challenge and interrogate financial information.

3.2 The matters set out above demonstrate a failure of financial governance arrangements and financial management by the Licensee, including, in particular:

3.2.1 a failure by the Licensee to adopt and apply systems and standards of corporate governance and of financial management which reasonably would be regarded as:

(a) suitable for a provider of the Commissioner Requested Services provided by the Licensee, and

(b) providing reasonable safeguards against the risk of the Licensee being unable to carry on as a going concern.

3.2.2 a failure to establish and effectively implement systems and/or processes:

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

(b) 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

(c) to identify and manage material risks to compliance with the conditions of its licence including through development and delivery of forward plans; and

(d) to ensure that it has in place personnel on the Board, reporting to the Board and within the rest of the Licensee's organisation who are sufficient in number and appropriately qualified to ensure compliance with the licence conditions.

4. Need for Action

4.1 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.

5. Appropriateness of Undertakings

5.1 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. Financial planning

- 1.1 Within a timeframe set by NHS England, the Licensee will agree a 2025/26 Financial Plan with NHS England.
- 1.2 The Licensee will deliver a quarter-on-quarter run rate improvement from Quarter 4 2024/25 and throughout 2025/26.
- 1.3 The Licensee will comply with all documented actions required by the System Financial Turnaround Director through the IAG.

2. Recovery Support Programme

- 2.1 The Licensee will evidence all reasonable steps have been taken to meet the Recovery Support Programme (RSP) Exit Criteria as set out and agreed by the IAG, in accordance with the timescales agreed by the IAG.
- 2.2 The Licensee will carry out a review of progress against the RSP Exit Criteria and report to the IAG, in accordance with the timescales agreed by the IAG.
- 2.3 In line with the IAG Terms of Reference and the requirements of the NHS Oversight Framework segmentation, the Licensee will cooperate fully with NHS England, health sector stakeholders and any external agencies or individuals appointed to work with or support the Licensee to address the concerns which these undertakings seek to address.

3. Leadership and Governance

- 3.1 The Licensee will co-operate and engage as required with the "Governance and Leadership Review" initiated by NHS England and led by an NHS England appointed Improvement Director.

3.2 The Licensee will ensure that it has in place sufficient and effective Board and management leadership capacity and capability, as well appropriate governance systems and processes to enable it to:

3.2.1 comply with the undertakings at paragraphs 1 and 2 effectively; and

3.2.2 address any other issues relating to governance or operations that have caused or contributed to, or are causing or contributing to, or will cause or contribute to, the breach of the conditions of the Licensee's licence.

3.3 The Licensee will inform NHS England prior to recruitment to executive board level posts and will (a) share the relevant person specifications with NHS England in draft for NHS England's comment. (b) provide a timetable for the appointment, and (c) ensure that there is NHS England representation on the interview panel.

4. Funding conditions and spending approvals

4.1 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.

4.2 The Licensee will comply with any reporting requests made by NHS England in relation to any financing to be provided to the Licensee by the Secretary of State for Health pursuant to schedule 5 to the NHS Act 2006.

4.3 The Licensee will comply with any spending approvals processes that are deemed necessary by NHS England.

5. Reporting

5.1 The Licensee will provide regular reports to NHS England through the IAG on its progress in meeting the undertakings set out above.

5.2 The Licensee will attend monthly IAG meetings, or, if NHS England stipulates, conference calls, as required, to discuss its progress in meeting those undertakings. IAG meetings will be led by the System Financial Turnaround Director, with attendees specified by NHS England.

5.3 The Licensee will provide NHS England with the assurance relied on by its Board in relation to its progress in delivering these undertakings, upon request.

5.4 The Licensee will comply with any additional reporting or information requests made by NHS England.

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 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

Martin A. Holman

Wessum (Chair)

Signed (Chair or Chief Executive of Licensee)

Dated: 4/3/25

NHS ENGLAND

Louise Shepherd

Louise Shepherd

Signed (North West Regional Director and Chair of the Regional Support Group) Dated: 13.03.2025

