

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Sheffield Teaching Hospitals NHS Foundation Trust
Northern General Hospital
Herries Road
Sheffield
S5 7AU

DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS England 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. Issues and need for action

Quality and Governance breaches

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: FT4(5)(c) and FT4(6)(c) - (f).

2.2 In Particular:

2.2.1 The CQC undertook an inspection of the acute and community services provided by the Licensee between 5 October 2021 and 11 November 2021. The CQC report, published on 5 April 2022 (“the CQC Report”) rated the Licensee as overall ‘requires improvement’. The report rated the effective, responsive, caring, and well-led areas as ‘requires improvement’ and the safe areas as ‘inadequate’. The Licensee was previously rated as ‘good’ overall in the report published in November 2018.

2.2.2 The CQC issued the Licensee with one section 29A warning notice (“the Warning Notice”), and a requirement notice in relation to 86 breaches of legal requirements in five core services and in relation to overall governance of the Licensee.

2.2.3 The CQC report included the following findings:

- 2.2.3.1 The Licensee did not have enough staff to care for patients and keep them safe;
- 2.2.3.2 The Licensee did not always control infection risk well;
- 2.2.3.3 The Licensee did not always manage safety incidents well and actions were not always robust;
- 2.2.3.4 The Licensee did not always plan care to meet the needs of local people, which, took account of patients' individual needs, and made it easy for people to give feedback;
- 2.2.3.5 The Licensee did not always engage well with staff, patients and the community to plan and manage services;
- 2.2.3.6 The delivery of high quality care was not assured by the governance of the Licensee.

2.2.4 These breaches by the Licensee demonstrate a failure of governance arrangements in particular but not limited to a failure by the Licensee to:

2.2.4.1 Establish and effectively implement systems and/or processes to:

- a) Ensure compliance with care health standards specified by the CQC;
- b) identify and manage material risks to compliance with the Conditions of its Licence; and
- c) ensure the matters relating to quality of care specified in FT4(6)(c) (collection of accurate, comprehensive timely and up to date information), FT4(6)(d) (the Board receives and takes into account such information), FT4(6)(e) (Board actively engages on quality of care), and FT4(6)(f) (clear accountability for quality of care).

3. Need for action

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

4. Appropriateness of Undertaking

In considering the appropriateness of accepting 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. Quality and Governance

1.1 The Licensee will, in a timely manner, take all reasonable steps to meet the applicable quality standards overseen by the CQC. This includes taking the actions outlined in paragraphs 1.2 to 1.7 below;

1.2 The Licensee will take immediate steps to address the patient safety concerns identified in the Warning Notice, to the satisfaction of the CQC, and any further action necessary to ensure the warning notice expires as soon as reasonably practicable;

1.3 The Licensee will, within a timeframe to be agreed with NHS England, submit to NHS England a recovery plan ("the Recovery Plan") setting out the steps it will take to achieve the objective outlined in paragraph 1.1 above, including how it will address the issues and recommendations outlined in the CQC Report; and any risks and mitigations to its achievement. The Recovery Plan must specify timescales for completion of identified actions.

- 1.4 The Licensee will periodically assess and, where necessary, revise the Recovery Plan to ensure it remains deliverable and sufficient to address the objective outlined in paragraph 1.1. The Licensee will submit any proposed amendments to the Recovery Plan to NHS England in a timely manner and will implement such amendments as NHS England approve.
- 1.5 The Licensee will deliver the Recovery Plan in accordance with the timescales specified in the Recovery Plan.
- 1.6 The Licensee will provide, at a date to be agreed with NHS England, a report demonstrating how the board is assured that the objective in paragraph 1.1 has been met.
- 1.7 The Licensee will ensure that the delivery of the Recovery Plan, and other measures to improve quality and operational performance, do not compromise its overall financial position. The Licensee 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 on the Licensee's overall financial position.

2. Programme Management and governance

- 2.1 The Licensee will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.
- 2.2 Such programme management and governance arrangements must enable the Licensee's Board to:
 - 2.2.1 obtain clear oversight over the progress in delivering the undertakings;
 - 2.2.2 obtain an understanding of the any risks to the successful achievement of the undertakings and ensure appropriate mitigation of any such risks; and
 - 2.2.3 hold individuals to account for the delivery of the undertakings.

3. Meetings and reporting

- 3.1 The Licensee will provide regular reports to NHS England on its progress in meeting the undertakings set out above and will attend meetings, or, if NHS England stipulates, conference calls, as required, to discuss its progress in meeting these undertakings.
- 3.2 The Licensee will provide NHS England with the evidence relied on by its Board in achieving assurance in relation to its progress in delivering these undertakings.
- 3.3 The Licensee will comply with any additional relevant 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 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 these undertakings: (i) NHS England may treat the Licensee as having failed to comply with these

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 (Chief Executive of Licensee)



Dated: 06 December 2022

NHS ENGLAND

Signed



Regional Director, Chair of the Regional Support Group (North East and Yorkshire)

Dated: 13 December 2022