

UNDERTAKINGS

NHS TRUST:

Walsall Healthcare NHS Trust ("the Trust")
Moat Road,
Walsall,
West Midlands,
WS2 9PS

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 undertakings from the Trust.

BACKGROUND:

NHS Improvement has issued a compliance certificate against the 2019 undertakings in recognition of progress against the quality, financial performance and operational performance issues identified at the time. However, due to quality and governance concerns remaining, it is appropriate that new undertakings are put in place to address the actions from the latest CQC inspections and to demonstrate progress against the improvement plan required.

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.

GROUNDINGS:

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

NHS England and NHS Improvement has reasonable grounds to suspect that the Trust has provided and is providing health care services for the purposes of the health service in England while failing to comply with the following conditions of the Licence FT4(5)(a) to (g), excluding (d), and FT4(6)(a) to (f).

In particular:

Quality Improvement / Governance

- 2.1. The Trust exited Special Measures in July 2019. A requirement of the Trust exiting Special Measures was that there was a comprehensive exit support plan in place which addressed the outstanding CQC areas of concern. The previous undertaking focused on those areas where additional support / focus was required.
- 2.2. In March 2021, the CQC undertook a targeted inspection of Medical Care (including older people's care), the resulting report, which was published in May 2021 identified that overall the services were assessed as Requires Improvement. However, the Trust was assessed as being Inadequate for the safe, responsive and well led domains.
- 2.3. A CQC inspection of Maternity services was undertaken in July 2021. The report, which was published in October 2021, rated Maternity services overall as Requires Improvement. In addition, the safe, effective and well led domains were also rated as Requires Improvement.
- 2.4. Although there were specific issues identified relating to medical and maternity care provision, an overarching theme from both CQC inspections highlighted the lack of oversight and insufficient governance arrangements.
- 2.5. In addition, NHS England and NHS Improvement has undertaken both a Trust governance review (looking at corporate, clinical and financial governance) and a targeted surgical division governance review. Both of which identified common themes regarding the lack of robust governance and oversight arrangements.
- 2.6. In April 2021, the Trust formed a collaboration agreement with Royal Wolverhampton NHS Trust (RWT). As part of this collaboration, a diagnostic was undertaken which identified the following key issues:
 - 2.6.1. Elements of structure and process did not adequately support robust assurance in relation to patient safety and outcomes, including incident management.
 - 2.6.2. Risks on the risk register were not well defined or recorded so did not properly support the Board Assurance Framework (BAF)
 - 2.6.3. There was a lack of standardised reporting to provide reliable assurance.
 - 2.6.4. There were low numbers of adult safeguarding referrals which did not align with the reported incidence of safeguarding incidents.
 - 2.6.5. Serious Incidents (SI) were not following the prescribed SI process.
 - 2.6.6. There was a lack of clarity and understanding of the role of the governance team by front line clinical teams and vice versa.

2.7. The staff survey results published in 2021 highlighted that, although some improvements had been made, the Trust was a negative outlier against a number of the measures.

2.8. The Trust has a CQC Well Led rating of Requires Improvement and over the last 12 months has seen a significant turnover of the Board.

3. Failures and need for action

3.1. These failings by the Trust demonstrate a failure of governance arrangements including failure to establish and effectively implement systems or processes:

- 3.1.1. to ensure compliance with the Trust's duty to operate efficiently, economically and effectively;
- 3.1.2. for timely and effective scrutiny and oversight by the Board of the Trust's operations;
- 3.1.3. to ensure compliance with healthcare standards binding on the Trust;
- 3.1.4. to obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;
- 3.1.5. to identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence;
- 3.1.6. 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.

3.2. Need for action:

NHS England and 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.

4. Appropriateness of Undertakings

In considering the appropriateness of accepting in this case the undertakings set out below, NHS England and NHS Improvement has taken into account the matters set out in its Enforcement Guidance.

UNDERTAKINGS

NHS England and NHS Improvement has agreed to accept and the Trust has agreed to give the following undertakings.

1. Quality Improvement and Governance

- 1.1. The Trust will take all reasonable steps to address the concerns identified in, but not limited to, the CQC Reports, including carrying out the actions set out in the CQC Report in accordance with timescales as determined by the CQC such that, upon re-inspection by the CQC, the Trust will no longer be found to be 'inadequate' in any of the CQC domains in relation to Medical Care Services.
- 1.2. The Trust will develop a comprehensive Improvement Plan, in response to the CQC inspection recommendations and any further independent reviews, and submit to

NHS England and NHS Improvement by 30 June 2022.

- 1.3. The Trust will keep the Improvement Plan and its delivery under review. Where matters are identified which materially affect the Trust's ability to deliver the Improvement Plan, whether identified by the Trust or another party, the Trust will notify NHS England and NHS Improvement as soon as practicable and update and resubmit the Improvement Plan within a timeframe to be agreed by NHS England and NHS Improvement.
 - 1.4. The Trust will ensure that the delivery of the Improvement Plan 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 and NHS Improvement as soon as practicable of any matters which are identified as potentially having a material impact on the Trust's overall financial position.
 - 1.5. The Trust will ensure that it has in place:
 - 1.5.1. sufficient and effective Board, management and clinical leadership capacity and capability; and
 - 1.5.2. appropriate governance systems and processes, to enable it to address the issues specified in paragraph 2.
 - 1.5.3. The Trust to submit an update of its revised governance and oversight arrangements to NHS England and NHS Improvement by 30 June 2022.
 - 1.6. The Trust to submit a progress update in relation to the actions it has taken in response to the staff survey findings.
 - 1.7. The Trust to submit a copy of its Board development programme to NHS England and NHS Improvement by 30 June 2022.
 - 1.8. The Trust to ensure that it creates a positive culture where people feel that they can speak up, that their voice will be heard and lead to learning and improvement. This will be by demonstrating that there are effective processes to receive systemic staff feedback and that there is a review mechanism in place.
2. Programme management
- 2.1. The Trust 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 board to:
 - 2.2.1. obtain clear oversight over the process in delivering these undertakings;
 - 2.2.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
 - 2.2.3. hold individuals to account for the delivery of the undertakings.
3. Access

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

4. Meetings and reports

4.1. The Trust will attend meetings or, if NHS England and NHS Improvement stipulates, conference calls, at such times and places, and with such attendees, as may be required by NHS England and NHS Improvement.

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

Any failure to comply with the above undertakings may result in NHS England and 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



(Chair or Chief Executive of Trust)

Dated

25-5-22

NHS ENGLAND and NHS IMPROVEMENT

Signed



Rebecca Farmer

Director of Strategic Transformation (West Midlands) and member of the Regional Support Group (Midlands)

Dated 25.05.2022