



ENFORCEMENT UNDERTAKINGS

NHS TRUST:

Nottingham University Hospitals NHS Trust (the Trust)
Trust HQ, City Hospital
Campus Hucknall Road,
Nottingham
NG51PB

BACKGROUND

NHS Improvement accepted undertakings from the Trust on 27 November 2017 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.

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 TOA Directions, NHS Improvement has decided to accept new undertakings from the Trust.

The undertakings replace and supersede all previous 2017 undertakings which covered an Operational Plan - A&E, Programme management, and Meetings and reports.

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 TOA Directions;

"NHS Improvement" means the National Health Service Trust Development Authority;

"TOA 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.

FOUNDATIONS:

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

2.1. NHS Improvement has reasonable grounds to suspect that the Trust 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: FT4(4) (a), (b), (c) ; FT4(5) (a), (c), (e), (f), (g), FT4(6) (a), (b,) (c), (d), (e), (f) and FT4(7).

2.2. In particular:

Quality of Care - maternity

2.2.1. In October 2020, the Care Quality Commission (CQC) carried out an inspection of maternity services which were subsequently rated 'inadequate' overall (report published December 2020). The 'well led', 'safe' and 'effective' domains were rated 'inadequate'. This was a deterioration from the previous inspection (report published March 2019) where maternity services were rated as 'requires improvement' overall.

2.2.2 A section 31 notice was issued citing concerns relating to: lack of systems in place to ensure staffing is actively assessed, reviewed and escalated, exposing mothers and their babies to the risk of harm; medical and midwifery skills and competency (training compliance during COVID, Cardiotocography (CTG) monitoring); effective governance systems and processes.

2.2.3 A section 29A notice was issued citing risk of harm due to concerns relating to: risk assessments, recognising & responding, monitoring & documentation. However, following an unannounced visit in April 2020, this warning notice was lifted.

2.2.4 The key concerns contributing to the CQC inadequate rating for maternity services are set out in its report published in December 2020 and can be summarised as:

- a. A lack of assurance that leaders had the skills and abilities to run the service. There were concerns that leaders within the service were not effective in implementing meaningful changes that improved safety.
- b. The service did not have a positive, open culture where staff could raise concerns without fear. Not all staff felt respected or valued and rarely felt supported.
- c. Leaders did not operate effective governance processes, throughout the service to continually improve the quality of the service and safeguard standards of care. Not all staff had regular opportunities to meet, discuss and learn from the performance of the service.
- d. Staff feared raising concerns and if they did, they weren't acted upon. They also found that leaders were not visible or approachable.
- e.. The service did not always manage patient safety incidents well. Staff recognised but did not always report incidents and near misses. Managers from the governance team investigated incidents but did not always share lessons learned with the whole team and the wider service in a timely way. When things went wrong there was concerns that there were delays with staff apologising and giving patients honest information and suitable support.
- f. Staff had not completed training in key skills and did not always understand how to keep women and babies safe. Staff did not always risk assess women appropriately and in line with national and local guidance, and records were not always well maintained.

2.2.4. The Trust has not made sufficient material improvement in the quality of care provided in maternity services.

Leadership, Governance and Culture

2.2.5 The CQC carried out a well led inspection at the end of July 2021 for which the Trust was subsequently rated 'inadequate'. A section 29A warning notice was issued, citing specific concerns relating to Board disconnect, poor governance and leadership, and a culture of bullying.

2.2.5 Following the well led and two other core service inspections (surgery rated 'good' and UEC rated 'requires improvement'), the Trust's overall rating was downgraded from 'good' (March 2019) to 'requires improvement' (September 2021) with an inadequate rating for well led. The final report outlined the following issues relating to well led:

- a. The Trust did not have an experienced leadership team with the skills, abilities, and commitment to provide high quality services
- b. The leadership team did not fully demonstrate behaviours which reflected the values they set for the organisation
- c. There was not always a culture of high-quality, sustainable care
- d. There was a culture of bullying across the organisation; a number of cases were directly related to racial discrimination
- e. There were not clear responsibilities, roles and systems of , accountability to support good governance and management
- f. Processes for managing risks, issues and performance were in place. However, these were not always clear and effective.
- g. "Appropriate and accurate information was not always effectively processed, challenged and acted on
- h. Staff did not always feel engaged or involved
- i. Systems and processes for learning and continuous improvement were not always robust

SOF 4 and Recovery Support Programme (RSP)

2.2.6 In September 2021, NHS Improvement's System Oversight Committee agreed that the Trust should be placed in SOF segment 4 and enter the RSP due to the significant concerns in relation to maternity and leadership, governance and culture.

2.2.7 As part of the RSP, an 'entry' meeting was held with the NHSEI Board on 6 December 2021. At this meeting it was agreed that the Trust needs a more granular approach to the traction and pace of its improvement.

2.2.8 The Trust has received considerable support from NHSEI, including the following:

- Inclusion on the Maternity Safety Support Programme (since December 2020)
- Improvement Director assigned to the Trust (May 2021) and Deputy Improvement Director (September 2021)
- RSP support package to address Board development, governance, culture and leadership.
- Additional specific funding has been given to support digital improvements and workforce recruitment

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



- 2.3.1 ensure compliance with health care standards binding on the Trust;
- 2.3.2 establish and effectively implement systems and/or processes for effective decision-making, management and control;
- 2.3.3 identify and manage material risks to comply with the conditions of the Licence; and
- 2.3.4 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.

2.4 Need for action:

- 2.4.1 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.

UNDERTAKINGS

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

3. Quality of Care - maternity

- 3.1 The Trust is required to take all reasonable steps to address the concerns as identified in the CQC's maternity services report in DeGember 2020, including carrying out the actions set out in the report 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 Trust will no longer be found to be 'inadequate' in any of the CQC domains.
- 3.2 By dates to be agreed with NHS Improvement, the Trust will update its maternity improvement plan ("the Maternity Improvement Plan") including demonstrating that it has sufficient capacity at both executive and other levels of management to enact the plan. Where necessary, the Trust will obtain external support from sources according to a scope and timescale to be agreed with NHS Improvement.



- 3.3 The Trust will, by such date as specified by NHS Improvement, agree on milestones and a timetable for delivering the Maternity Improvement Plan with NHS Improvement and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS Improvement.
- 3.4 To ensure that the plan is deliverable, significant resource and support has been provided by NHS Improvement. The Trust will fully engage with the bespoke expertise and support which is being provided
- 3.5 The Trust will take all other reasonable steps to deliver compliance with a set of maternity improvement metrics to be agreed with NHS Improvement, on a sustainable basis within a timeline to be agreed with NHS Improvement.
- 3.6 The Trust will work with system partners to review and strengthen system governance with regards to maternity in such timescales as agreed with NHS Improvement.
- 3.7 If required by NHS Improvement, the Trust will commission an external review to provide assurance that the Maternity Improvement Plan has been appropriately implemented. The scope, source and timing of the reports will be agreed with NHS Improvement.
- 3.8 The Trust will arrange with NHS Improvement, and with local partners, a series of clinical visits each quarter to review and assess progress against the implementation of the Maternity Improvement Plan. The scope and the review team will be agreed by NHS Improvement.
- 3.9 The Trust must, as part of its Maternity Improvement Plan, develop a comprehensive recruitment plan which outlines a trajectory for increasing the number of midwives in the department in line with the Birthrate plus assessment.
- 3.10 The Trust must, as part of its Maternity Improvement Plan, develop a comprehensive engagement plan which evidences how the Trust is ensuring that families are listened to and that their voices are heard. NHS Improvement expects the Trust to evidence how this engagement is impacting on the quality of maternity services.
- 3.11 The Trust will enter into a formal management agreement with another Trust that NHS Improvement will identify, specifically for maternity services support. This Trust will be a maternity provider which is safe, effective, well-led and compassionate. This Trust will also set the benchmark for clinical

standards and support NUH to develop clinical leadership and managerial capability, along with changes to working practices and culture.

4. Leadership, governance and culture

- 4.1 The Trust is required to take all reasonable steps to address the concerns as identified in the CQC's inspection report in September 2021, including carrying out the actions set out in the report 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 Trust will no longer be found to be 'inadequate' in the well led domain.
- 4.2 By dates to be agreed with NHS Improvement, the Trust will update its well led improvement plan ("the Well led Improvement Plan") including demonstrating that it has sufficient capacity at both executive and other levels of management to enact the plan. Where necessary, the Trust will obtain external support from sources according to a scope and timescale to be agreed with NHS Improvement.
- 4.3 The Trust will, by such date as specified by NHS Improvement, agree on milestones and a timetable for delivering the Well led Improvement Plan with NHS Improvement and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS Improvement.
- 4.4 To ensure that the plan is deliverable, significant resource and support has been provided by NHS Improvement. The Trust will fully engage with the bespoke expertise and support which is being provided.
- 4.5 The Trust will take all other reasonable steps to deliver compliance with a set of Well led improvement metrics to be agreed with NHS Improvement, on a sustainable basis within a timeline to be agreed with NHS Improvement.
- 4.6 If required by NHS Improvement, the Trust will commission an external review to provide assurance that the Well led Improvement Plan has been appropriately implemented: The scope, source and timing of the reports will be agreed with NHS Improvement.
- 4.7 The Trust will provide evidence of effective Trust leadership and governance structures and ensure that processes are in place to deliver and sustain essential improvements in the quality of services, ensuring sustainability and a continuous quality improvement focus in the Trust.

5. Improvement Director

- 5.1. The Trust will co-operate and work_ with an Improvement Director(s) to oversee and provide independent assurance to NHS Improvement on the Trust's delivery to improve the quality of care the trust provides.

6. Programme management

- 6.1. The Trust will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.
- 6.2. In meeting the requirements of paragraphs 3.2 and 4.2 the Trust will ensure that the Plans:
 - 6.2.1. Include the actions required to deliver improvements with appropriate timescales, resourcing and clear accountabilitys to clinical and non-clinical action owners;
 - 6.2.2. Describe the key risks to delivering the Plans and mitigating actions being taken;
 - 6.2.3. Include appropriate quality impact assessments and details of how quality impact will be monitored; and
 - 6.2.4. Describe how the Trust will assess progress against quality impact assessments, including the quality assurance measures and metrics to be used;
- 6.3. The Trust will keep the Plans and their delivery under review and provide appropriate assurance to its Board regarding progress towards delivering the Plans and such assurance to be provided to NHS Improvement on request. Where matters are identified which materially affect the Trust's ability to deliver the Plans whether identified by the Trust or another party, the Trust will notify NHS Improvement as soon as practicable and update and resubmit the affected plan(s) within a timeframe to be agreed with NHS Improvement.
- 6.4. Such programme management and governance arrangements must enable the Board to:
 - 6.4.1. obtain clear oversight over the process in delivering these undertakings;
 - 6.4.2. obtain an understanding of the risks to the achievement of the undertakings and ensure appropriate mitigation; and
 - 6.4.3. hold individuals to account for the delivery of the undertakings.



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

7. Meetings and reports

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

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

12.3. The Trust will attend monthly oversight and assurance meetings, and executive calls with NHS Improvement 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 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 TOA Directions.

THE TRUST

Signed

Chair or Chief Executive of Trust

Dated *15th April 2022*

NHS IMPROVEMENT

Signed

Dated 26th April 2022

Oliver Newbould
Director of Intensive Support and member of the Regional Support Group (Midlands)

