

## ENFORCEMENT UNDERTAKINGS

### NHS TRUST:

Sandwell and West Birmingham NHS Trust (“the Trust”)  
City Hospital  
Dudley Road  
Birmingham  
West Midlands  
B18 7QH

### 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 discontinuation certificates against a number of the 2019 undertakings, this is in recognition of the passage of time and changes in the Trust’s operational and financial circumstances. However, due to continued quality and governance concerns, it is appropriate that new undertakings are put in place to address the recommendations from the recent independent governance review and the staff survey results. These undertakings replace and supersede the remaining 2019 undertakings.

### 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 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 (b), FT4(5)(e) to (g), and FT4(6)(a) to (f).

In particular:

### Quality Improvement and Governance

- 2.1. The Trust has an overall CQC rating of Requires Improvement, with additional quality concerns raised in maternity services.
- 2.2. 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.
- 2.3. The Trust has experienced significant changes in its leadership team in the past two years and the most recent CQC inspection assessed the Well Led domain as Requires Improvement, this was deterioration against the previous Good rating.
- 2.4. Cultural behaviours coupled with a high turnover of staff, have created challenges to embedding learning. When placed in unclear clinical and corporate governance structures, these cultural factors have exacerbated the issues.
- 2.5. An Independent Governance Review was conducted in August 2021 which resulted in 20 recommendations for the Trust to improve its governance systems and processes.
- 2.6. Further external support was commissioned following this review to support the Trust with:
  - 2.6.1. A review of the current Executive Portfolios
  - 2.6.2. Development of the Trust's decision-making operating model
  - 2.6.3. Comprehensive quality governance support and development

## 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:
  - (a) to ensure compliance with the Trust's duty to operate efficiently, economically and effectively;
  - (b) for timely and effective scrutiny and oversight by the Board of the Trust's operations;
  - (c) to obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;
  - (d) to identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence;
  - (e) 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, and;

- (f) to ensure the matters relating to quality of care specified in conditions FT4(5)(a) to (b), FT4(5)(e) to (g), and FT4(6)(a) to (f) of the Conditions of the Licence are complied with.

### 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.

### 5. Support

In order to support the Trust with the issues outlined in paragraph 2, NHS England and NHS Improvement will work with the Trust in relation to the areas outlined in Appendix 1.

## **UNDERTAKINGS**

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

### 1. Quality Improvements and Governance

- 1.1. The Trust will take all reasonable steps to implement the 20 recommendations resulting from the independent governance review dated August 2021, in accordance with recommended timescales.
- 1.2. The Trust will develop a comprehensive governance improvement plan in response to the independent governance review recommendations and submit to NHS England and NHS Improvement by 30 June 2022, or such date as agreed with NHS England and NHS Improvement.
- 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 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 (Issues and need for action).

1.6. The Trust will submit an update of its revised governance and oversight arrangements to NHS England and NHS Improvement by 30 June 2022, or by such date as agreed with NHS England and NHS Improvement.

1.7. The Trust will submit a progress update in relation to the actions it has taken in response to the staff survey findings by a date to be agreed with NHS England and NHS Improvement.

1.8. The Trust will 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



Richard Beeken

**Chief Executive Officer**

Dated 30/06/22

**NHS ENGLAND and NHS IMPROVEMENT**

Signed



Rebecca Farmer

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

Dated 20/05/2022

**Support requested by the Trust from NHS England and NHS Improvement**

The Trust has requested a range of support from NHS England and NHS Improvement as part of its ongoing improvement and development agenda, these are as follows:

<p><b>Strategy and Improvement</b></p>	<ul style="list-style-type: none"> <li>• Dedicated team to support full operating model transformation of Ophthalmology and innovative funding support for new build</li> <li>• Leadership development programme support at Sandwell Emergency Department</li> <li>• Design and Execution of Leadership Development programme with a mechanism to track measurable improvements</li> <li>• Codesign and support staff satisfaction drive encompassed in our people plan, through Culture, Physical Environment and Technology levers</li> <li>• Support a proper Clinical Quality Improvement implementation in a similar way to the 6 Virginia Mason trusts.</li> </ul>
<p><b>Quality</b></p>	<ul style="list-style-type: none"> <li>• Maternity – Organisational Development, culture</li> <li>• Fundamentals of care - support to the Director of Nursing</li> </ul>
<p><b>Communications and Engagement</b></p>	<ul style="list-style-type: none"> <li>• Buddying with a similar Trust who has managed to improve their staff survey response rate and engagement score (I.e. large acute / community)</li> <li>• Common operating model for Pulse survey results – a guide for managers on how to interpret results and how to act on them</li> </ul>