

REPLACEMENT ENFORCEMENT UNDERTAKINGS v16/06/2022

NHS TRUST:

Shrewsbury and Telford Hospitals NHS Trust (the Trust)
Mytton Oak Road
Shrewsbury
SY3 8XQ

BACKGROUND

NHS Improvement accepted undertakings from the Trust on 19 March 2021 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:

NHS England, on the basis of the grounds set out below and pursuant to its powers under the National Health Service Act 2006 as amended, has decided to accept these updated undertakings from the Trust.

Compliance certificates were issued for the 2021 undertakings in respect of the Improvement Alliance requirements and the need for management support for maternity services.

These undertakings replace and supersede the remaining 2021 undertakings which covered an Operational Plan - A&E, Financial Plan, Funding Conditions and Spending Approvals, Quality improvement Plan or QIP, Improvement Director, Programme management, and Meetings and reports.

DEFINITIONS:

In this document:

“the conditions of the Licence” means the conditions of the licence held by providers of NHS services under Chapter 3 of Part 3 of the Health and Social Care Act 2012 which NHS England expects the Trust to comply with;



“NHS Improvement” means the organisation comprising the statutory bodies of Monitor and the National Health Service Trust Development Authority before their abolition under the Health and Care Act 2022 and the transfer of their functions to NHS England.

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

2.1. NHS England 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(5) (a), (c), (d), (f) and (g), FT4(6)(a), (b,) (c), (d) (f) and FT4(7).

2.2. In particular:

Quality of Care

2.2.1 In November 2018, the Trust was rated by the Care Quality Commission (CQC) as ‘Inadequate’ overall, and specifically across the two domains of safe and well-led. NHS Improvement placed the Trust in special measures for quality for reasons relating to inadequate care.

2.2.2 The latest CQC Inspection report, published on 18 November 2021, recognises that progress is being made and that there are clear signs of improvement, but the overall rating of ‘inadequate’ remains unchanged.

Maternity

2.2.3 In December 2016 the Secretary of State asked NHS Improvement to establish an independent review of investigations into neonatal and maternal deaths which occurred at the Trust. Donna Ockenden was appointed as the independent panel chair and published the first of two expected reports on maternity services on 10 December 2020 (‘Ockenden Report 2020’) which identified 27 local actions for the Trust, plus seven immediate and essential actions for all maternity services across England. The findings show that quality and safety of maternity services at the Trust were of an unacceptable standard.

2.2.4 Donna Ockenden published the second and final report on 30 March 2022. The Trust will need to update its Ockenden Report Action Plan to address the recommendations that will be made in the second Ockenden Report 2022.

Operational Performance – Urgent and Emergency Care

2.2.5 The Trust has failed to meet the expectation that ambulance handovers should be reduced towards zero but no more than 2%. During 2019-20 there were 2,690 handover delays over 1 hour. During April to February 2021-22 there were 8,200 delays compared to 1,896 in the same period for 2020-21. This is a significant deterioration and is an unacceptably high number of delays. The number of ambulance conveyances remained static during the same period.

2.2.6 The Trust has failed to meet the expectation of zero 12-hour Decision To Admit (DTA) breaches. During 2019-20 there were 1,163 12-hour DTA breaches. During April to February 2021-22 there were 1,952 breaches compared to 369 in the same period for 2020-21. This is a significant deterioration and is an unacceptably high number of breaches.

Financial Performance

2.2.7 As a result of COVID-19 the financial architecture of the NHS changed in 2020/21, with the introduction of block contract payments and a retrospective top-up to enable organisations to break-even in months 1-6. At Month 10 2021/22, the Trust forecast was an outturn deficit of £8.84m which is an adverse variance of £0.75m.

2.2.8 In 2022/23 the financial framework sets out a return to an annual allocation and plan. The system is expected to submit a significant deficit plan and the overall financial challenge for the Trust is expected to be considerable, requiring ongoing support from NHS England.

2.2.9 System financial sustainability planning has not yet identified a full set of deliverable milestones for recovery, and the draft 2022/23 financial plan is not in-line with the Financial Recovery Plan, although further work to improve the position will take place before the final plan submission. External support from NHS England will continue throughout 2022/23.

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 financial decision-making, management and control (including but not restricted to appropriate systems and/or processes to ensure the Trust's ability to continue as a going concern); and
- 2.3.3 identify and manage material risks to comply with the conditions of the Licence.
- 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 England 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 England has agreed to accept, and the Trust has agreed to give the following undertakings.

3. Quality Improvement Plan or QIP

- 3.1. The Trust is required to take all reasonable steps to address the concerns as identified in the CQC's reports ((latest November 2021), including carrying out the actions set out in the reports 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 England, the Trust will update its previous quality improvement plan (“the Quality Improvement Plan or QIP”) including demonstrating that it has sufficient capacity at both executive and other levels of management to enact the QIP. The updated QIP is known locally as “Getting to Good”.
- 3.3 The Trust will, by such date as specified by NHS England, agree on milestones and a timetable for delivering the QIP with NHS England and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS England.
- 3.4 To ensure that the plan is deliverable, significant resource and support and been provided by NHS England. The Trust will fully engage with the bespoke expertise and capacity which is being provided.
- 3.5 The Trust will ensure that the delivery of the QIP 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 as soon as practicable of any matters which are identified as potentially having a material impact the Trust’s overall financial position.
- 3.6 The Trust will take all other reasonable steps to deliver compliance with a set of improvement metrics to be agreed with NHS England, on a sustainable basis within a timeline to be agreed with NHS England.

4. Maternity Services

- 4.1 By dates to be agreed with NHS England, the Trust will update its Ockenden Report Maternity Action Plan (the “Maternity Action Plan”) to address the recommendations in the Ockenden Report 2022. The Maternity Action Plan must be agreed by all key stakeholders and will form a key part of the wider “Maternity Transformation Programme” which is integral to the Trust’s “Getting to Good” overarching improvement plan.
- 4.2 The Trust will be required to complete an assessment against the recommendations and immediate actions in the Final Ockenden Report of 2022 and take action to address the outstanding areas of practice, including a clear risk analysis which also identifies the necessary mitigations.
- 4.3 The Trust must continue to engage and work with its identified “Maternity Improvement Advisor”, which was appointed by NHS Improvement and

continues to be appointed by NHS England, to ensure maternity services make sustainable and embedded changes from frontline staff through to the Trust Board.

- 4.4 The Trust will, by such date as specified by NHS England, agree on milestones and a timetable for delivering the Maternity Action Plan with NHS England and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS England.

5. Operational Plan – Urgent and Emergency Care

- 5.1 By a date to be agreed with NHS England, the Trust will produce an updated single, comprehensive recovery plan ('the UEC Plan'). This plan should clearly set out how 12-hour waits in the Emergency Department will be addressed and reduced towards zero but no more than 2%. The plan must identify actions that will result in ambulance handovers delays over 1 hour being eliminated.

- 5.2 The UEC Plan will include, in particular:

- 5.2.1 An evidence-based narrative of the current drivers of performance below the standard for ambulance handover delays and breaches of the 12-hour standard.

- 5.2.2 The Trust's planned actions, in conjunction with system partners, to improve A&E performance at the Trust, including those which address the recommendations of NHS Improvement's clinical lead, supported by key performance indicators against each action, timescales and the expected impact of each action on overall A&E performance; and

- 5.2.3 The Trust's updated trajectory for delivery of the ambulance handover and 12-hour breach standards and how the Trust will monitor delivery of actions in the UEC Plan.

- 5.3 The Trust will, by such date as specified by NHS England, agree on milestones and a timetable for delivering the UEC Plan with NHS England and will submit a monthly Board-approved progress report against delivery until such date as specified by NHS England.

6. Financial Plan

- 6.1 The Trust will continue to operate within the financial regime requirements of 2022/23 in line with the national response to the COVID-19 pandemic.
- 6.2 The Trust will comply with planning guidance issued by NHS England for the 2022/23 financial year; with the aim of improving the Trust's underlying financial position (as measured by the recurrent income and expenditure position) and achieving the agreed financial trajectory for the year.
- 6.3 The Trust will produce detailed analysis to continue to monitor the current underlying position, monthly run-rate and operational expenditure forecast for 2022/23. This will include the reintroduction of any paused CIP plans.
- 6.4 The 2022/23 financial plans will include phasing, actions and timeframes which will be reviewed at monthly and quarterly meetings scheduled between the Trust and NHS Improvement.
- 6.5 The Trust will continue to update the system financial recovery plan (FRP), developed in 2021 and quality assured and approved by the Integrated Recovery Board, which meets a series of requirements set by NHS England. The FRP and associated updates are subject to review and approval by NHS England.
- 6.6 The Trust will work with system partners and NHS England to refresh the Shropshire and Telford & Wrekin ICS financial strategy in conjunction with the system improvement plan.

7. Funding Conditions and Spending Approvals

- 7.1 Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Trust under Schedule 5 to the National Health Service Act 2006, the Trust will comply with any terms and conditions which attach to the financing.
- 7.2 The Trust will comply with any spending approvals processes that are deemed necessary by NHS England.

8. System Oversight

- 8.1 The Trust will work with system partners to ensure delivery of the System Improvement Plan which has been developed in response to the issues raised by CQC and identifies actions for all system partners which are aimed at supporting the Trust and addressing the challenges which have placed the system in the Recovery Support Programme
- 8.2 The Trust will work openly and in collaboration with system partners to ensure that all necessary information is available to provide robust system oversight on the quality and safety of services including progress and delivery against the Quality Improvement Plan and other plans.

9. Programme management

- 9.1. The Trust will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.
- 9.2. Such programme management and governance arrangements must enable the board to:
 - 9.2.1. obtain clear oversight over the process in delivering these undertakings;
 - 9.2.2. obtain an understanding of the risks to the achievement of the undertakings and ensure appropriate mitigation; and
 - 9.2.3. hold individuals to account for the delivery of the undertakings.
- 9.3. The Trust will provide to NHS England direct access to its advisors, programme leads, and the Licensee's board members as needed in relation to matters covered by these undertakings.
- 9.4 The Trust will ensure it has sufficient capacity and capability to deliver the improvement plans referenced above. Where deemed by NHS England to be necessary, the Trust will obtain external support from sources and according to a scope and timescale to be agreed with NHS England.

10. Meetings and reports

- 10.1. The Trust will attend meetings or, if NHS England stipulates, conference calls, at such times and places, and with such attendees, as may be required by NHS England.
- 10.2. The Trust will provide such reports in relation to the matters covered by these undertakings as NHS England may require.
- 10.3 The Trust will attend monthly oversight and assurance meetings, and executive calls with NHS England 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 England taking further regulatory action. This could include giving formal directions to the Trust under section 27B of the National Health Service Act 2006.

THE TRUST

Signed



Dr Catriona McMahon
Chair of The Shrewsbury and Telford Hospital NHS Trust

Dated 01/09/ 2022

NHS ENGLAND

Signed



Fran Steele
Director of Strategic Transformation – Midlands

Dated 02 /09/2022