

REPLACEMENT ENFORCEMENT UNDERTAKINGS

LICENSEE:

Worcestershire Acute Hospitals NHS Trust (“the Licensee”)
Charles Hastings Way
Worcester
WR5 1DD

DATE OF ISSUE: 3rd February 2025

1. 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.

From 1 April 2023 NHS trusts have been required to hold and comply with such a licence. Prior to 1 April 2023 NHS England, acting in exercise of its functions under section 27A of the NHS Act 2006, expected NHS trusts to comply with such conditions.

“NHS Improvement” means the National Health Service Trust Development Authority, which was abolished and its functions transferred to NHS England on 1 July 2022 by the Health and Care Act 2022. Any references to NHS Improvement should be taken to mean NHS England.

2. BACKGROUND

2.1 NHS England accepted enforcement undertakings from the Licensee in May 2019 and then again July 2022 in relation to:

- Quality of care (CQC inadequate rating for Urgent and Emergency Care)
- Operational performance (Emergency Care, Diagnostics, Cancer and Elective Recovery)

2.2 In January 2025, a compliance certificate was issued for the undertakings related to quality of care and for the undertakings related to operational performance in respect of Elective Recovery and Cancer. Undertakings against Diagnostics performance were discontinued and not renewed.

2.3 NHS England continues to have concerns related to operational performance in respect of Urgent and Emergency Care. The undertakings below replace and supersede the remaining 2022 undertakings.

3. DECISION

NHS England, on the basis of the grounds set out below, and having regard to its Enforcement Guidance, 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”).

4. GROUNDS

4.1 The Licensee

4.1.1 The Licensee is the holder of a licence granted under section 87 of the Act.

4.2 Issues and need for action

4.2.1 NHS England has reasonable grounds to suspect that the Licensee has provided and is providing health care services for the purposes of the health service in England while failing to comply with and apply those principles, systems and standards of good corporate governance which reasonably would be regarded as appropriate for a provider of health care services to the NHS, specifically the following conditions of the Licence: NHS2 (5)(a), NHS2(5)(d), NHS2(5)(f) and NHS2(5)(g).

4.2.2 In particular:

Operational performance

Urgent and Emergency Care (UEC):

4.2.2.1 The Licensee continues to experience challenges in relation to delivery of Urgent and Emergency Care performance; including delays to ambulance handover and flow within the UEC pathway and when discharging patients.

4.2.3 Need for action:

4.2.3.1 NHS England believes that the action which the Licensee has undertaken to take pursuant to the undertakings recorded here is action required to secure that the breaches in question do not continue or recur.

5. APPROPRIATENESS OF UNDERTAKINGS

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

6. UNDERTAKINGS

NHS England has agreed to accept, and the Licensee has agreed to give the following undertakings.

1. Operational Performance – Urgent and Emergency Care

1.1 The Licensee will take all reasonable steps to recover the operational performance and to achieve sustainable compliance with the urgent and emergency care constitutional standards as set out in agreed improvement trajectories, in line with the national expectation.

1.1.1 The Licensee will ensure that patients are reviewed more quickly within the Emergency Department with more patients being admitted, transferred or discharged within four hours through an agreed upon recovery trajectory.

- 1.1.2 The Licensee will ensure that there is sustained improvement in Ambulance Handover times and that this improvement is in line with an agreed trajectory, to support a sustained improvement in Ambulance Category 2 response times.
- 1.2 The Licensee will, by a date to be agreed with NHS England, ensure that there is a robust Urgent and Emergency Care improvement plan (the UEC plan) in place to meet the requirements of 1.1, which has been agreed with NHS England. This plan should align to the wider Herefordshire and Worcestershire system improvement plan.
- 1.3 The UEC plan will, in particular:
 - 1.3.1 Include the actions required to meet the requirements of paragraph 1.1 covering capacity and flow in the Emergency Department and wider organisation, with appropriate timescales, key performance indicators and resourcing;
 - 1.3.2 Include associated trajectories in line with the ambitions ascribed in the NHS Priorities and Operational Planning Guidance (2025/26), as agreed with NHS England and which is in alignment with the agreed Herefordshire and Worcestershire system trajectory, for how the Licensee will meet national expectations in relation to the UEC targets on a sustainable basis;
 - 1.3.3 Describe the key risks to meeting the requirements of paragraph 1.1 and mitigating actions being taken;
 - 1.3.4 Be based on realistic assumptions;
 - 1.3.5 Reflect collaborative working with key system partners and other stakeholders;
 - 1.3.6 Set out the key performance indicators which the Licensee will use to measure progress against each action, and expected impact on overall UEC performance
- 1.4 The Licensee will incorporate any comments or amendments regarding the UEC plan made by NHS England, or a third party if such assurance is requested by NHS England, and will send a revised UEC plan by a date agreed with NHS England.
- 1.5 The Licensee will implement all the actions within its control in the UEC plan within the timescales set out in the UEC plan, unless otherwise agreed by NHS England.
- 1.6 The Licensee will report to NHS England on the implementation of the UEC plan each month or at an alternative frequency determined by NHS England and notified to the Licensee, in a form to be specified by NHS England.
- 1.7 The Licensee will keep the UEC plan and its delivery under review and provide appropriate assurance to its Board regarding progress towards meeting the UEC Plan, such assurance to be provided to NHS England.
- 1.8 The Licensee will notify NHS England as soon as practicable when it becomes aware of matters which materially affect the Licensee's ability to deliver the UEC Plan, and the Licensee shall promptly update the UEC Plan to address those matters. The Licensee shall submit any updated UEC Plan within five working days to NHS England.
- 1.9 The Licensee will ensure that the delivery of all undertakings in relation to operational performance and other measures to improve operational performance do not compromise its overall financial position. The Licensee will keep the financial cost of its 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

- 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 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. Meetings and Reports

- 3.1 The Licensee will provide quarterly reports to NHS England on its progress in complying with the undertakings set out above.
- 3.2 The Licensee 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. These meetings will take place once a month unless NHS England otherwise stipulates, at a time and place to be specified by NHS England and with attendees specified by NHS England.
- 3.3 Upon request, the Licensee will provide NHS England with the evidence, reports or other information relied on by its Board in relation to assessing its progress in delivering these undertakings.
- 3.4 The Licensee will comply with any additional 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 the undertakings: (i) NHS England may treat the Licensee as having failed to comply with the 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.

THE LICENSEE

Signed



Glen Burley
Chief Executive of Worcestershire Acute Hospitals NHS Trust

Dated: 7 February 2025

NHS ENGLAND

Signed



Rebecca Farmer
Director of System Co-ordination and Oversight – West Midlands

Dated: 3rd February 2025