



## **VARIATION TO ENFORCEMENT UNDERTAKINGS**

### **LICENSEE:**

East Kent Hospitals University NHS Foundation Trust ("the Licensee")  
Kent and Canterbury Hospital  
Ethelbert Road  
Canterbury  
Kent  
CT1 3NG

### **BACKGROUND:**

Whilst improvements have been made in the quality of services since undertakings were agreed on 13 February 2019, specific quality and governance concerns in respect of the Licensee's Maternity services have to come to light since the 2019 undertakings were accepted.

This variation does not change the existing financial undertakings and the Licensee remains in Special Measures for financial reasons ("FSM"), which it first entered in March 2017.

Any reference to "NHS Improvement" in this variation of undertakings is to be taken as a reference to Monitor.

### **VARIATION:**

The Licensee and NHS Improvement have agreed the following variations to the terms of the Enforcement Undertakings accepted from the Licensee by NHS Improvement on 13 February 2019.

1. Substitute paragraphs 2.2.2 to 2.2.8 of the Grounds section with the following:

"2.2.2 The Licensee is currently subject to CQC prosecution regarding the preventable death of a baby in 2018.

2.2.3 There is a Coroner's Report on Action to Prevent Future Deaths under regulation 28 of the Coroners (Investigations) Regulations 2013 in relation to this case.

2.2.4 A ministerially appointed independent review of maternity services and baby deaths at the Trust is currently being conducted by Dr Bill Kirkup CBE ("the Independent Review of Maternity Services").

2.2.5 The Licensee has breached its A&E 4 hour waiting time target for each of the last three years.

2.2.6 The Licensee has failed to meet the monthly referral to treatment (RTT) target for the last three years.

2.2.7 The Licensee has not achieved the A&E national standard for the last three years and does not have a plan to return to compliance. There are high numbers of vacancies of nursing and medical staff, which are impacting on patient flow and contributing to the Licensee's failure to achieve the A&E national standard. The Licensee does not have a comprehensive workforce strategy in place.

2.2.8 The Licensee has not achieved the 62 day wait cancer standard for each of the last three years."

2. After paragraph 1.3 of the Enforcement Undertakings, insert the following:

"1.4 The Licensee will, in particular, take such steps as are necessary to secure that the agreed RTT recovery trajectories in its RTT plan are met and will provide evidence to NHS Improvement of compliance with those trajectories."

3. Substitute paragraphs 2.2 and 2.3 of the Enforcement Undertakings with the following:

"2.2 The Licensee will take all reasonable steps to deliver the A&E 4-hour performance standard and provide high quality safe care for patients.

2.3 In meeting the requirements of paragraph 2.2 the Licensee will, in particular, continue to develop its comprehensive A&E recovery plan and trajectory, as agreed by the Licensee Board and by NHS Improvement ("the A&E plan"), to return to compliance with the 4-hour performance standard and demonstrate that it can deliver that plan."

4. Substitute paragraph 7.1 of the Enforcement Undertakings with the following:

"7.1 The Licensee will take all reasonable steps to address the concerns which are identified in the 2018 and 2020 CQC reports, including carrying out the actions set out in the CQC reports in accordance with such timescales as determined by the CQC."

5. After paragraph 7.3 of the Enforcement Undertakings insert the following:

"7.4 The Licensee will develop and agree with NHS Improvement a comprehensive maternity improvement plan with clear deliverables, taking into account the Coroner's Report on Action to Prevent Future Deaths under regulation 28 of the Coroners (Investigations) Regulations 2013, all other outstanding external reviews, and the maternity improvement actions identified by the improvement team.

7.5 The Licensee will cooperate with the Independent Review of Maternity Services, providing all necessary information to support the completion of the review in line with the agreed terms of reference.

7.6 The Licensee 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."

**These variations are agreed pursuant to paragraph 11 of Schedule 11 to the Health and Social Care Act 2012 (variation of terms).**

**All other terms of the original Enforcement Undertakings accepted from the Licensee by NHS Improvement on 13 February 2019 remain unchanged.**

**Signed on behalf of the Licensee**

**Signed on behalf of NHS Improvement**

**Name: Susan Acott**

**Name: Anne Eden**

**Position: Chief Executive**

**Position: Regional Director South East**

**Signature:**



**Signature:**



**Date: 28/07/2021**

**Date: 29/7/2021.**

