NHS England
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ENFORCEMENT UNDERTAKINGS LICENSEE:

East Kent Hospitals University NHS Foundation Trust
Kent and Canterbury Hospital
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BACKGROUND

NHS England accepted undertakings under section 106 of the Health and Social Care Act 2012 ("the Act") from East Kent Hospitals University NHS Foundation Trust ("the Licensee" / "the Trust") on 13 February 2019. Following which, specific quality and governance concerns in respect of the Licensee's Maternity services came to light and a variation to the Undertakings was agreed on 29 July 2021. Further concerns related to Leadership, Governance and Culture, Operational Performance and Financial Recovery led to additional undertakings being accepted on 26 September 2024. Due to non-compliance with those undertakings, which has been evidenced in part by intervening events and further concerns related to Leadership, Governance and Culture, Operational Performance, Quality and Financial Recovery, the majority of those undertakings are deemed to be outdated.

DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS England has decided to accept new undertakings for the reasons set out below. These undertakings will supersede the undertakings previously agreed on 13 February 2019, as

amended on 29 July 2021, and on 26 September 2024 which will cease to have effect from the date of issue.

GROUNDS

1. Licence

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

2. Breaches

2.1 NHS England considers that the Licensee has provided and is providing health care services for the purposes of the NHS in breach of the following conditions of its licence: NHS2(2); NHS2(4)(a)(b)(c); NHS2(5)(a)(b)(c)(d); NHS2(7).

2.2 In particular:

Leadership, Culture and Governance

2.2.1 The CQC undertook a Well Led inspection between 4 and 5 July 2023, following which the Trust was rated as 'Requires Improvement'. Whilst the Trust has undertaken a range of improvement actions since that inspection and has shared evidence of activity with NHS England, these actions have not yet resulted in sustained or demonstrable improvement in organisational culture, leadership effectiveness or governance arrangements. As a result, concerns remain in the following areas:

1. The executive team had reviewed the vision, values and strategy. This was in its infancy and needed time to be developed fully. There were plans to ensure a structured planning process in collaboration with people who use the service, staff and external partners.
2. Not all staff felt respected, supported and valued. Not all staff felt the service had an open culture where they could raise concerns without fear.
3. Governance arrangements lacked clarity and were not always effective at all levels. The governance reporting needed streamlining and strengthening to be more effective.
4. The Trust did not always deal with complaints within expected timeframes.

2.2.2 In the 2025 NHS Staff Survey results, the Trust saw some of the biggest negative deviations from average (areas of greatest concern), with the greatest risks clustered around Advocacy, Compassionate Culture, Raising Concerns and Staff Engagement.

Quality

2.2.3 An inspection of urgent and emergency care was carried out on 06 and 07 January 2026 at Queen Elizabeth the Queen Mother Hospital. During the inspection and having considered the subsequent provision of evidence, the CQC found that, in summary, significant improvements were required:

a) in triage processes;
b) to timely assessment medical review and treatment in the emergency department;
c) to ensure patients are treated in an area that can meet their needs;
d) in safety and protecting privacy and dignity in the emergency department;
e) to ensure effective governance in the emergency department;
f) to ensure effective leadership in the emergency department;
g) to ensure nutrition and hydration needs are monitored and met;
h) to ensure safe staffing in the emergency department;
i) in patient risk assessments, meeting needs, monitoring and record keeping; and
j) to ensure safe medicine management in the emergency department.

2.2.4 As part of the Secretary of State's Independent Investigation into Maternity and Neonatal Services in England, there is increased scrutiny over the Trust's current practices within neonatal services, which is of concern.

Operational Performance: Unplanned Emergency Care and Planned Care

2.2.5 The NHS Kent and Medway Integrated Care Board ("ICB") has been in the National Tiering Programme (Tier 1) for Urgent and Emergency Care for a number of years, with the Trust disproportionally contributing to non-compliance with national standards and exceptionally long waiting times. In October 2025, the ICB was stepped down from Tiering with performance progress instead monitored at a Trust level. Therefore, the Trust remains in Tier 1, with a focus on reducing the number of patients that wait over 12 hours in the emergency department.

2.2.6 Progress had been made in planned care, however, following a review of elective, cancer and diagnostic performance at the end of January 2026 the Trust was escalated to Tier 1 for Elective and entered Tier 2 for Diagnostics. Additionally, the Trust has not met the Cancer faster diagnosis standard target and is non-compliant with the 62-day target.

Financial Recovery

2.2.7 The Trust delivered its 2024/25 plan; a £85.8m deficit. The Trust received £78.4m of deficit support funding which reduced the deficit to £7.4m.

2.2.8 In 2025/26, the Trust agreed a deficit plan of £64.2m. The Trust was eligible for £57.6m of deficit support funding which was contingent upon delivery of the agreed plan.

2.2.9 At month 9 the Trust reported a material adverse variance to plan and formally reforecast its outturn position to a deficit of £81.9m. The principal driver of the adverse movement was a shortfall on efficiency delivery of £20.3m. As a consequence of not delivering the agreed financial plan, the Trust did not receive £23m of deficit support funding (DSF) in Q3 and Q4.

2.2.10 In July 2025 the Trust Board agreed a three-year financial sustainability plan to return the Trust to recurrent financial balance with 2025/26 being the first year of this plan. The agreement of the financial sustainability plan was part of the undertakings given by the Trust to NHS England. As consequence of the reforecast 2025/26 financial position, the Trust did not achieve the first year of the financial sustainability plan.

2.2.11 As part of the 2026/27 national planning process, the Trust has submitted a 3-year Medium Term Financial plan 2026/27; this has a reducing deficit trajectory, in line with the national control totals issued to the Trust, of £35.6m in 2026/27, £21.8m in 2027/28 and £3.6m in 2028/29. Deficit support funding of the same value will be made available to the Trust contingent upon delivery of the agreed deficit control total.

2.2.12 In 2026/27, a Kent & Medway system-wide financial improvement programme, led by a System Financial Improvement Director, has been initiated and advanced oversight arrangements are in place in the form of Regional Financial Accountability meetings, which the Trust is engaged with. The Trust has also appointed external financial resource to support delivery of its plan. At month 1 2026/27, the Trust is reporting delivery in line with plan.

2.2.13 The financial sustainability plan needs to be updated to reflect delivery in 2025/26 and to align to the Trust's 2026/27 Medium Term Plan (MTP) submission. The underlying financial position should be updated as part of the alignment with the MTP.

2.2.14 The links between the drivers of deficit, and how the financial improvements proposed within the financial sustainability plan address these, need to be strengthened. Further work is also needed on proposed efficiencies; particularly

those that are reliant on external/ third parties to ensure the proposals are deliverable.

2.3 These breaches by the Licensee demonstrate a failure of governance arrangements and financial management standards, in particular but not limited to a failure by the Licensee to:

2.3.1 Apply 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.

2.3.2 Establish and implement clear reporting lines and accountabilities throughout its organisation.

2.3.3 Establish and effectively implement systems and/or processes to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively; to ensure compliance with health care standards specified by the Secretary of State, the CQC, NHS England and statutory regulators of health care professions.

2.3.4 Establish effective financial decision making, management and control (including but not restricted to appropriate systems and/or processes to ensure the Licensee's ability to continue as a going concern).

1. Need for action

1.1 NHS England believes that the action, which the Licensee has undertaken to take pursuant to these undertakings, is action to secure that the suspected breaches in question do not continue or recur.

2. Appropriateness of Undertakings

2.1 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, including the enforcement action taken in April 2026 whereby NHS England imposed additional licence conditions on the Licensee under section 111 of the Health and Social Care Act 2012.

UNDERTAKINGS

NHS England has agreed to accept and the Licensee has agreed to give the following undertakings, pursuant to section 106 of the Act. These undertakings supersede any of the original undertakings that remain in place.

1. Leadership, Culture and Governance

1.1 The Licensee shall apply principles, systems and standards of governance which would reasonably be regarded as appropriate for a supplier of healthcare services to the NHS. In particular:

1.1.1 Providing an approved Board Assurance Framework to NHS England by 31 October 2026 that demonstrates arrangements operate in a way that ensures governance, assurance, risk and accountability structures interact effectively to support timely, informed and escalated decision making at board and committee level.

1.1.2 Board and committee papers evidencing scrutiny, challenge, decisions taken and follow-up actions that demonstrate consideration, identification, assessment, escalation and mitigation of risks in a timely manner.

1.2 The Licensee shall not rely solely on the existence of quality governance processes as evidence of compliance. Where delivery of the undertakings gives rise to material quality or safety risks, the board will evidence the decisions taken to proceed, pause or amend delivery and the actions agreed to mitigate those risks.

1.3 The Licensee will demonstrate improvement in the culture of the organisation through the 2026 NHS Staff Survey scores, targeted pulse or staff engagement data, and evidence of board level action taken in response. In particular, staff experience, staff engagement and psychological safety, and a culture of speaking up, where staff at all levels are supported, equally encouraged and empowered to raise concerns and see timely, appropriate action taken.

1.4 By December 2026 the Licensee will operate an effective, timely and equitable complaints process that supports learning, improves experience and embeds Equality, Diversity and Inclusion (EDI) principles.

1.5 The Licensee will ensure sustained board and committee visibility and oversight of people, culture and complaints related risks via evidence of board and committee papers demonstrating:

1.5.1 Establishment of short, medium and long-term goals that provide demonstrable improvement in organisational culture with short-term improvement evidenced by March 2027.

1.5.2 Analysis of key themes for workforce, culture, Freedom To Speak Up, Equality, Diversity and Inclusion and complaints handling including timeliness and handling of complex issues, including those relating to behaviour, discrimination, dignity and respect and consideration of differential experience linked to protected characteristics

1.5.3 Consideration, challenge, debate and decisions taken in response to identified trends, risks or areas of deterioration.

1.5.4 Clear links between insight presented, actions agreed and subsequent assurance, including decisions taken and actions agreed in response to repeated or systemic issues.

1.5.5 Where themes, delays or EDI related concerns persist, the board decisions taken to strengthen, amend or replace actions that are not delivering improvement.

1.6 The Licensee will develop and agree a sustainable organisational clinical strategy through effective stakeholder engagement, and publish the strategy by 31 March 2027, and plan for this strategy to be implemented through 2027/28 with quarterly progress reported thereafter.

1.7 Integrated Improvement Plan:

1.7.1 By 30 September 2026, the Trust will submit its Integrated Improvement Plan to NHS England for agreement, setting a clear timetable for implementation and ensuring compliance with recommendations from external reviews and mandated improvement regimes.

1.7.2 The Licensee must ensure successful delivery of the Integrated Improvement Plan agreed by NHS England and in accordance with the agreed timetable set out in that plan.

1.7.3 The Licensee will consult with NHS England on any proposed significant changes to its Integrated Improvement Plan, including any proposed changes to the timetable for implementation. Any proposed changes are subject to approval in writing by NHS England.

1.7.4 The Licensee will provide the NHS England team supporting them with full access to the Licensee's key personnel, meetings, resources, Board members, advisers and information, as well as any other members of its staff considered necessary by NHS England.

2. Quality

2.1 The Licensee shall establish and effectively implement systems and/or processes to ensure compliance with health care standards binding on the Licensee including but not restricted to standards specified by the Secretary of State, the Care Quality Commission, NHS England and statutory regulators of health care professions.

3. Unplanned Emergency Care

3.1 The Licensee will continue to develop and implement its comprehensive UEC recovery plan and trajectory, as agreed by the Licensee Board, and provide progress updates to NHS England periodically, at intervals to be agreed with NHS England.

3.2 The Licensee will deliver consistent improvement in performance to deliver UEC performance in line with national standards, or such other appropriate target determined by NHS England and notified to the Licensee in writing.

3.3 The Licensee will deliver consistent improvement in performance to reduce patients waiting over 12 hours from arrival in ED (Type 1 and Type 2) in line with the UEC recovery plan or such other appropriate target determined by NHS England and notified to the Licensee in writing.

3.4 The Licensee will demonstrate quality, safety and operational improvements across the whole UEC pathway to virtually eliminate corridor care. Substantive and sustained progress will be demonstrated within 6 months, unless some other date is determined by NHS England and notified to the Licensee in writing.

4. Planned Care

4.1 The Licensee will deliver a consistent reduction in the overall Patient Tracking List and volume of long waits, to drive improvement in RTT performance in line with the 2026/27 operating plan.

4.2 The Licensee will develop a plan outlining its delivery of the Cancer Faster Diagnosis Standard (FDS) of 80% and 62-day combined performance of 80% with a consistent reduction in 62-day backlog by March 2027 or such other date determined by NHS England and notified to the Licensee in writing.

4.3 The Licensee will deliver a minimum 3% improvement in performance or performance of 20% or better towards Diagnostic Waiting Times and Activity (DM01) by March 2027.

5. Financial Recovery

5.1 The Licensee will take all reasonable steps to achieve a position of financial sustainability.

5.2 In meeting the requirements of paragraph 5.1., the Licensee will:

5.2.1 Review and revise the previous financial sustainability plan by the end of Q3 2026/27 to address the priority deliverables and reform opportunities set out in the *Medium-Term Planning Framework – delivering change together 2026/27 to 2028/29 guidance.* The financial sustainability plan should meet the annual deficit limits agreed through the medium-term financial plan and return the Trust to recurrent financial balance by the 2029/30 financial year;

5.2.2 Ensure that the updated financial sustainability plan reflects feedback provided by NHS England South East regional Team including:

5.2.2.1 an assessment of the underlying position and sets out how the position improves across the planning period;

5.2.2.2 analysis of the drivers of deficit that clearly identifies how the interventions proposed address these drivers and improve financial performance; and

5.2.2.3 financial interventions and savings opportunities identified are developed, quantified and implemented as a priority to improve financial performance.

5.2.3 The Licensee is to engage with key stakeholders, including Kent & Medway ICB, to develop and implement system opportunities and to ensure the financial sustainability plan is aligned with wider system financial improvement, financial planning and key strategies;

5.2.4 The financial sustainability plan and its delivery must be subject to robust financial oversight and governance;

5.2.5 The financial sustainability plan must be refreshed annually and maintained to adhere to the latest available NHS planning guidance;

5.2.6 As a milestone(s) towards delivering the financial sustainability plan, the Licensee will deliver its in-year financial plans as agreed with NHS England as part of the annual planning cycle.

5.3 The Licensee will ensure that robust financial controls and governance (including workforce and non-pay controls, financial reporting and forecasting) are embedded, and that the Licensee has systems and processes in place that are able to assure the Trust Board that these controls are operating effectively.

6. Programme Management

6.1 The Licensee will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.

6.2 Such programme management and governance arrangements must enable the board to:

6.2.1 obtain clear oversight over the process in delivering these undertakings;

6.2.2 obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and

6.2.3 hold individuals to account for the delivery of the undertakings.

7. General

7.1 In line with the requirements of the NHS Oversight Framework, the Licensee will cooperate fully with NHS England, health sector stakeholders and any external agencies or individuals appointed to work with or support the Licensee to address regulatory concerns.

8. Reporting

8.1 The Licensee will provide regular reports to NHS England on its progress in complying with the undertakings set out above and will attend meetings, or, if NHS England stipulates, conference calls, as required, to discuss its progress in meeting those undertakings. 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.

8.2 Upon request, the Licensee will provide NHS England with the evidence, reports or other information relied on by its Board in relation in assessing its progress in delivering these undertakings.

8.3 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.

LICENSEE

Signed: 

Interim Chair of Licensee

Dated: 3rd July 2026

NHS ENGLAND

Signed: Anne Eden

Regional Director

Dated: 07/07/2026