

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Sheffield Children's NHS Foundation Trust
Clarkson St
Broomhall
Sheffield
S10 2TH

DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS Improvement 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"). In this document, "NHS Improvement" means Monitor.

GROUND S

1. Licence

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

BREACHES

2. Finance

2.1. NHS Improvement has reasonable grounds to suspect that the Licensee has provided and is providing healthcare services for the purposes of the NHS in breach of the following conditions of its licence: FT(4)(5)(a), (b) and (d).

2.2. In particular:

2.2.1. the year-end position for the Licensee for 2019/20 was a deficit of £9.6m with a £12.8m underlying position. This was £7.2m adverse to plan;

2.2.2. the Licensee's performance in 2019/20 reflects a pattern of deteriorating financial delivery against Board-approved plans; and

2.2.3. a report by PwC dated 20 March 2020 identified further concerns around the Licensee's financial position, including a deteriorating cash position putting the Licensee at risk of running out of cash in 2020/21 without remedial action and in the absence of a financial recovery plan.

- 2.3. These breaches by the Licensee demonstrate a failure of governance arrangements, in particular, a failure by the Licensee to establish and effectively implement systems and/or processes:
- (a) to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;
 - (b) for timely and effective scrutiny and oversight by the Board of the Licensee's operations; and
 - (c) for 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).

2.4. Need for action

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

3. Appropriateness of Undertaking

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

UNDERTAKINGS

NHS Improvement has agreed to accept and the Licensee has agreed to give the following undertakings, pursuant to section 106 of the Act:

1. Financial sustainability

- 1.1. The Licensee will agree a financial plan and projections for 2020/21 with the Integrated Care System and NHS Improvement and deliver this over the remainder of 2020/21.
- 1.2. The Licensee will, by a date to be agreed with NHS Improvement, further develop the Financial Recovery Plan (the Plan) to achieve overall financial balance on a recurrent basis by no later than the end of 2023/24. The Plan will include timeframes and responsible leads, and be subject to agreement by NHS Improvement.
- 1.3. In developing the plan, the Licensee will collaborate with its Integrated Care System, commissioners including NHS England and local partners to agree:
 - 1.3.1. a strategic vision which secures a sustainable future for its services, with implementation timeline; and

1.3.2. any financial or other resourcing assumptions in the Plan that are required to be provided, or supported, by those organisations and partners.

1.4. The Licensee will take all reasonable steps to implement the Plan by a date to be agreed with NHS Improvement.

2. Funding conditions and spending approvals

2.1. Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Licensee pursuant to section 40 of the NHS Act 2006, the Licensee will comply with any terms and conditions which attach to the financing.

2.2. The Licensee will comply with any reporting requests made by NHS Improvement in relation to any financing to be provided to the Licensee by the Secretary of State for Health pursuant to section 40 of the NHS Act 2006.

2.3. Where the Licensee receives payments from the Sustainability and Transformation Fund, the Licensee will comply with any terms or conditions which attach to the payments.

2.4. The Licensee will comply with any spending approvals processes that are deemed necessary by NHS Improvement.

3. Programme Management

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

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

3.2.1. obtain clear oversight over the process in delivering these undertakings;

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

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

4. Meetings and reports

4.1. The Licensee will attend meetings or, if NHS Improvement stipulates, conference calls, at such times and places, and with such attendees, as may be required by NHS Improvement.

4.2. The Licensee will provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

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 Improvement. 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 Improvement is satisfied that the Licensee has given inaccurate, misleading or incomplete information in relation to the undertakings: (i) NHS Improvement may treat the Licensee as having failed to comply with the undertakings; and (ii) if NHS Improvement decides so to treat the Licensee, NHS Improvement must by notice revoke any compliance certificate given to the Licensee in respect of compliance with the relevant undertakings.

LICENSEE



Signed (Chair or Chief Executive of Licensee)

Dated: 22/10/2020

NHS IMPROVEMENT

Signed 

Tim Savage – Finance Director and member of the Regional Support Group (North East and Yorkshire)

Dated: 22/10/2020

