

## APPENDIX B

### ENFORCEMENT UNDERTAKINGS

#### LICENSEE:

Wirral University Teaching Hospital NHS Foundation Trust (“the Licensee”)  
 Arrowe Park Hospital  
 Arrowe Park Road  
 Upton  
 CH49 5PE

#### 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”).

#### GROUND

##### 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 has reasonable grounds to suspect 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:

2023 Licence	Summary of condition
NHS2(5)(a), (b), (c) (d), (f) and (g)	<p>The Licensee shall establish and effectively implement systems and/or processes:</p> <p>(a) to ensure compliance with the Licensee’s duty to operate efficiently, economically and effectively;</p> <p>(b) for timely and effective scrutiny and oversight by the Board of the Licensee's operations;</p> <p>(c) 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</p>

	<p>Commission, NHS England and statutory regulators of health care professions;</p> <p>(d) 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);</p> <p>(f) to identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the conditions of its licence;</p> <p>(g) to generate and monitor delivery of business plans (including any changes to such plans) and to receive internal and where appropriate external assurance on such plans and their delivery.</p>
NHS2(7)	The Licensee shall ensure the existence and effective operation of systems to ensure that it has in place personnel on the Board, reporting to the Board and within the rest of the Licensee’s organisation who are sufficient in number and appropriately qualified to ensure compliance with the Licence conditions.
CoS3	The Licensee shall at all times adopt and apply appropriate systems and standards of corporate governance and financial management.

### 3. Financial Sustainability and Governance

#### 3.1 In particular:

- 3.1.1 the Licensee reported circa (c.) £19.4m deficit (excluding deficit support funding (DSF)) for the financial year (FY) 24/25.
- 3.1.2 the Licensee’s financial outturn (FOT) for FY24/25 was c.£3.1m adverse to plan.
- 3.1.3 the Licensee had a c. £26.9m Cost Improvement Programme (CIP) Plan in FY24/25 with a 100% recurrency target and represented c. 5.3% of turnover. The Licensee reported to have delivered c. £26.9m of CIP in line with plan. However, c. £7.3m (27.1%) was delivered non-recurrently.
- 3.1.4 the exit underlying position of the Licensee at 31 March 2025 was reported as a £45.8m deficit.

3.2 The PricewaterhouseCoopers FY25/26 Rapid Financial Diagnostic carried out across the Cheshire and Merseyside Integrated Care System in June 2025, highlighted the following issues and financial risks at the Licensee:

3.2.1 the FY25/26 Financial Plan is exposed to risks from high pay settlements, potential reductions in income, and the non-delivery of savings plans.

3.2.2 the Licensee initially identified £25m of risk across four key areas, although this has subsequently fallen to £18m following Month 1 25/26 and circa. £15.6m following Month 2 25/26 incorporating identified mitigations. The four areas at the point of planning were full delivery of the elective plan (£5m), full CIP delivery, including Integrated Care System schemes (£12m), aseptic pharmacy currently closed for refurbishments (£2m) and run-rate pressures carried forward from FY24/25 and/or additional 25/26 pressures (£6m),

3.2.3 although the Month 1 25/26 position is reported as being in-line with plan, the Licensee has used non-recurrent mitigations to support, and the actual position is likely to be closer to a £1.6m variance to plan.

3.2.4 although the additional 'stretch' of £4.2m is reported, this is on-top of existing £10m stretch relating to system allocations (combined £14.5m 'stretch'). This is not included within CIP.

3.2.5 the Licensee's cash position is a material risk. At 31 March 2025, the Licensee's cash balance stood at £53k. This is predominantly driven by consecutive years of non-cash-backed deficit.

3.2.6 although the Licensee's Board supports the FY25 Financial Plan, there is a clear view that some elements of the efficiency plan are internally deliverable, others must be driven by integration (with Wirral Community Health and Care NHS Foundation Trust) and other system interventions. The Licensee has plans to deliver these non-recurrently but this will not support the underlying position.

3.3 The matters set out above demonstrate a failure of financial governance arrangements and financial management by the Licensee, including, in particular:

3.3.1 a failure by the Licensee to adopt and apply systems and standards of corporate governance and of financial management which reasonably would be regarded as:

(a) suitable for a provider of the Commissioner Requested Services provided by the Licensee, and

(b) providing reasonable safeguards against the risk of the Licensee being unable to carry on as a going concern.

3.3.2 a failure 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 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); and

(c) to identify and manage material risks to compliance with the conditions of its licence including through development and delivery of forward plans; and

#### 4. Performance

##### 4.1 In particular:

4.1.1 following an unannounced inspection of urgent and emergency care (UEC) services at Arrowe Park Hospital in March 2024 by the Care Quality Commission (CQC), the Licensee was given a rating of 'requires improvement' for the provision of UEC services. Following a further unannounced focussed assessment of UEC services at Arrowe Park Hospital in May 2025 by the CQC, the rating has remained as 'requires improvement'. This rating was given across four of the five domains – 'safe', 'caring', 'responsive' and 'well-led' (the final domain – 'effective' was rated 'good').

4.1.2 whilst some improvements since the last CQC inspection in March 2024 were noted, and positive feedback from patients and their families was heard, the CQC's overall view was that the service did not always provide and maintain safe systems of care, in which safety was managed, monitored, and assured. Whilst most processes and policies to plan and deliver people's care and treatment were in line with legislation and current evidence-based good practice and standards, people were not always cared for in the right place.

4.1.3 the Licensee's performance for percentage of patients spending over 12 hours in the Emergency Department (ED) currently sits at just over 21% (i.e. one in every five patients is likely to experience a wait in ED of over 12 hours); the Trust is an outlier nationally with respect to this metric.

4.2 The matters set out above demonstrate a failure of quality governance arrangements by the Licensee, including, in particular failure to establish and effectively implement systems and/or processes to ensure compliance with healthcare standards binding on the Licensee.

#### 5. Need for Action

5.1 NHS England 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.

## 6. Appropriateness of Undertakings

6.1 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.

## **UNDERTAKINGS**

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

### 1. Financial planning

- 1.1 The Licensee will deliver the 2025/26 Financial Plan, as agreed with NHS England.
- 1.2 The Licensee will deliver a quarter-on-quarter run rate improvement from Quarter 3 2025/26 and throughout 2025/26.
- 1.3 The Licensee will comply with all documented actions required by NHS England through the oversight meetings, led by NHS England or its representative.

### 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 and Social Care to the Licensee pursuant to section 40 of the National Health Service 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 England 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 The Licensee will comply with any spending approvals processes that are deemed necessary by NHS England.

### 3. Performance

- 3.1 The Licensee will take all reasonable steps within its control to:

3.1.1 as a minimum, reduce the proportion of patients spending over 12 hours in ED to at least 15% by March 2026, as agreed at the Licensee's 2025/26 Mid-Year Review.

3.1.2 ensure that there is a robust action plan in place to address 12 hour waits in the ED. Timescales are as agreed in the overarching Emergency Department Improvement Plan.

#### 4. Reporting

4.1 The Licensee will provide regular reports to NHS England through the oversight meetings led by NHS England or its representative on its progress in complying with the undertakings set out above.

4.2 The Licensee will attend monthly oversight meetings, or, if NHS England stipulates, conference calls, as required, to discuss its progress in meeting those undertakings. Oversight meetings will be led by NHS England or its representative, with attendees specified by NHS England.

4.3 The Licensee will provide NHS England with the assurance relied on by its Board in relation to its progress in delivering these undertakings, upon request.

4.4 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 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**



Chief Executive

Signed (Chair or Chief Executive of Licensee)

Dated: 3rd February 2026

**NHS ENGLAND**



Signed (North West Regional Director and Chair of the Regional Support  
Group) Dated: **04 February 2026**