

Enforcement Undertakings

LICENSEE:

Nottingham CityCare Partnership CIC
1 Standard Court,
Park Row,
Nottingham,
NG1 6GN

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, references to NHS Improvement are references to Monitor.

GROUND

1. Licence

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

BREACHES

2. Financial Governance Breaches

- 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: CoS3(1)(a); CoS3(1)(b).
- 2.2. In Particular, whilst there is evidence of improvements in corporate governance, financial management and financial planning the grounds on which breach is suspected are:
 - 2.2.1. There remains evidence of shortcomings in some areas such as material contract bids reviewed by NHSI in November and December 2017 not being subject to appropriate Board scrutiny and challenge.
 - 2.2.2. The Licensee does not currently have either a medium term financial plan or a strategic plan in place that demonstrates that it can continue to deliver the essential services for patients whilst maintaining its financial position.

2.3. The suspected breaches by the Licensee demonstrate:

2.3.1. Shortcomings in governance arrangements in particular but not limited to 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 providing reasonable safeguards against the risk of the Licensee being unable to carry on as a going concern.

2.4. Need for action

2.4.1. NHS Improvement believes that the actions, which the Licensee has undertaken to take pursuant to these undertakings, will secure that the suspected breaches do not continue or recur.

2.4.2. Nothing in these undertakings is intended to impact upon the standards of quality of care to which the Licensee is subject under its contracts with commissioners and regulation by the Care Quality Commission.

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. Corporate Governance and Financial Management

1.1 As part of continuous development and review of corporate governance and financial management, the Licensee will, on a quarterly basis, consider the need to undertake a review of the governance arrangements to support robust decision making suitable for the delivery of the CRS contract during the next twelve months. Any review should include but not be limited to: committee structures; skills, capability and capacity of the board; board development and succession planning. The Licensee will do this for the next twelve months or longer if required by NHS Improvement

1.2 The Licensee will provide board minutes or other evidence that the board has considered the need for quarterly review of the governance arrangements.

1.3 The Licensee will agree the resourcing of its finance function with NHS Improvement and will recruit and maintain that level of resource. This includes the appointment of substantive Finance Director and appointments to any vacant non-executive director roles.

1.4 The Licensee will share with NHSI any external reports that make recommendations related to standards of corporate governance and financial management (including at draft stage) and provide evidence of addressing any recommendations from these reports with regular updates during their implementation. The Licensee will share reports which are received during the next twelve months or longer if required by NHS Improvement.

1.5 As part of the delivery of the above, the Licensee will ensure that its governance arrangements meet the current needs of the business and keep the structure and functions of the organisation under review. The needs of the business should include the requirements to maintain the standards of quality of care to which the Licensee is subject under its contracts with commissioners and regulation by the Care Quality Commission.

2. Long Term Financial Planning

2.1 The Licensee is to continue to maintain an accurate forecast of the trading position for the current financial year (“the Trading Forecast”) reflecting any cost saving plans which will enable the Licensee to deliver its financial plan for the current year and the next financial year.

2.2 The Licensee will keep the delivery of its Trading Forecast under review, including the forecast cash position, and will amend the trading forecast to take account of any significant matters identified and agreed with NHS Improvement. References to the Trading Forecast in these undertakings will mean the Trading Forecast as so amended.

2.3 By a date to be agreed with NHS Improvement, the Licensee is to complete and adopt its three-year Corporate Strategy and forward Financial Plan. This will outline the drivers of potential cost pressures, future efficiency requirements and planned mitigations to ensure it remains a going concern.

2.4 The Licensee will ensure that tender submissions, business cases and restructuring activity which are necessary to support the delivery of the contracts are supported by robust financial and non-financial information and are subject to appropriate Board challenge and scrutiny.

3. Financial Reporting

3.1 The Licensee will submit progress reports to NHS Improvement against all the plans referred to in these undertakings on a quarterly basis (or otherwise as required) and by exception until such date as agreed with NHS Improvement. The progress reports will identify any deviation from the actions and associated timeframes for delivery of the plans and will be signed off by the Licensee’s Director of Finance.

3.2 The Licensee will continue to co-operate with NHS Improvement and report by exception any emerging risks to delivery of its financial plan.

4. Meetings

4.1 The Licensee will continue to attend meetings (or if NHS Improvement stipulates conference calls) with NHS Improvement during the currency of the undertakings to discuss its progress in meeting the undertakings. These meetings shall take place once a quarter unless NHS Improvement otherwise stipulates, at a time and place to be specified by NHS Improvement and with attendees specified by NHS Improvement.

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.

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 of Licensee)



Dated: 28th November 2018

NHS IMPROVEMENT



**Signed (Chair of the Regional Provider Support Group (Midlands and East))
Dale Bywater**

Dated: 28th November 2018