

## **ENFORCEMENT UNDERTAKINGS**

### **LICENSEE:**

Colchester Hospital University NHS Foundation Trust (“the Licensee”)  
Trust Headquarters  
Turner Road  
Colchester  
Essex  
CO4 5JL

### **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**

#### 1. Licence

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

### **BREACHES**

#### 2. Operational Performance, Quality and Governance

- 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: FT4(5)(b),(c),(e) and (f).
- 2.2. In particular:
  - 2.2.1. The cancer 62 day standard has not been met since December 2013;
  - 2.2.2. The Licensee has been regularly in the bottom quartile for A&E performance against the national standard, having reported 87.7% YTD;
  - 2.2.3. The Licensee has not delivered the RTT 18 week incomplete standard since September 2014 and has failed to deliver on its agreed improvement trajectories;
  - 2.2.4. The Licensee underwent an announced comprehensive CQC inspection from 10-20 July 2017, with an unannounced inspection taking place from 25-28 July 2017. The final reports were issued on 2 November 2017 which rated the Licensee ‘Requires Improvement’ overall. In the report on Colchester Hospital University NHS Foundation Trust, the Licensee was rated ‘good’ for ‘Effective’, ‘Caring’

and 'Well-led', however it was rated 'Requires Improvement' for the 'Safe' and 'Responsive' domains. In the report on Colchester General Hospital, which is run by the Licensee, the hospital was rated 'good' for 'Effective' and 'Caring' and 'requires improvement' for 'Safe', 'Responsive' and 'Well-led'."

2.3. These breaches by the Licensee demonstrate a failure of governance arrangements, in particular:

2.3.1. A failure to establish and effectively implement systems and/or processes:

2.3.1.1. For timely and effective scrutiny and oversight by the Board of the Licensee's operations;

2.3.1.2. 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, the NHS Commissioning Board and statutory regulators of health care professions;

2.3.1.3. To obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;

2.3.1.4. To identify and manage (including but not restricted to manage through forward plans) material risk to compliance with the Conditions of its License.

2.4. Need for action

2.4.1. 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. Operational Performance

1.1. The Licensee will:

1.1.1. take all reasonable steps to deliver the agreed A&E improvement plan and A&E recovery trajectory for 2017/18;

- 1.1.2. take all reasonable steps to deliver the 62 day cancer standard in line with the Every Patient Every Day Improvement Plan and recovery trajectory agreed with NHS Improvement for 2017/18; and
- 1.1.3. take all reasonable steps to deliver the RTT 18 week incomplete standard in line with the Every Patient Every Day Improvement plan and recovery trajectory agreed with NHS Improvement for 2017/18.

## 2. Governance and Quality

### 2.1. The Licensee will:

- 2.1.1. Conduct a well led self-assessment in accordance with NHS Improvement's Well Led Framework during 2018/19 or as soon as practicable following the transaction with Ipswich Hospital, the final timing for which will be confirmed with NHS Improvement as part of the agreed oversight meetings;
- 2.1.2. Take part in two oversight meetings for the Licensee to articulate to the system the level of assurance it has regarding continued quality improvement during 2018/19 or as soon as practicable following the transaction with Ipswich Hospital, the final timing for which will be confirmed with NHS Improvement as part of the agreed oversight meetings;
- 2.1.3. Progress its Quality Improvement Plan to be discussed at each progress review meeting with NHS Improvement;
- 2.1.4. Enable the NHS Improvement sub-regional team to observe the Licensee's board and sub-committees, interview the Chair and CEO, and provide feedback on Board observation and areas for development during 2018/19;
- 2.1.5. Undertake a Quality Data Review, supported by the Licensee's Director for Quality Intelligence and Insight, and include inpatient, staff and trainee doctor surveys during 2018/19; and
- 2.1.6. Undertake a deep dive into risk management and Board to ward effectiveness during 2018/19.

## 3. Meetings and Reporting

- 3.1. The Licensee will provide regular reports to NHS Improvement on its progress in meeting the undertakings set out above and will attend meetings, or, if NHS Improvement stipulates, conference calls, as required, to discuss its progress in meeting those undertakings. These meetings will take place once a month unless NHS Improvement otherwise stipulates, at a time and place to be specified by NHS Improvement and with attendees specified by NHS Improvement.
- 3.2. The Licensee will provide NHS Improvement with the assurance relied on by its Board in relation to its progress in delivering these undertakings, upon request.
- 3.3. The Licensee will comply with any additional reporting or information requests made 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, 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: 10 January 2018

## NHS IMPROVEMENT

Signed



**Frances Shattock**

**Position: Member of the Regional Provider Support Group (Midlands and East)**

Dated: 15 January 2018