

## Enforcement Undertakings

### LICENSEE:

Central Surrey Health Limited  
Ewell Court Clinic  
Ewell Court Avenue  
Ewell  
KT19 0DZ

### 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) and CoS3(1)(b).
- 2.2. The grounds on which breach is suspected are:
  - 2.2.1. The licensee has recently experienced a period of rapid growth through contract acquisition, however there is evidence that the appropriate improvements to financial governance and substantive resourcing of key roles have not been made. Further to this the Licensee has experienced turnover in key executive posts over the previous 12 to 18 months with vacancies being covered on an interim basis by Non Executive Directors, in particular the role of the Chief Financial Officer.
  - 2.2.2. The Licensee has not demonstrated the budget setting process for both FY18 and FY19 was sufficiently robust and timely.
  - 2.2.3. The Licensee does not have a dedicated and resourced function for managing and overseeing the delivery of Cost Improvement Plans despite the recent and material growth of the organisation; potential changes to contracting arrangements and the level of CIP required in FY19 to achieve financial targets.

2.2.4. A well-led review by Niche Consulting dated May 2018 (Well-Led Review) has identified further areas requiring attention including in financial and corporate governance at the Licensee and has made a number of recommendations to be implemented by the licensee.

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. Further to this, NHS Improvement would expect the licensee to address recommendations, in the well-led-review, including those that address quality governance.

### 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 and Corporate Governance

1.1 By a date agreed with NHS Improvement, the Licensee will develop an action plan ("Action Plan") for the implementation of the financial management and corporate governance recommendations from the Well-Led Review by Niche Consulting dated May 2018.

1.2 The relevant contents of the Action Plan will be agreed with NHS Improvement and will include actions identified from the investigation into breach of licence.

1.3 The Licensee will agree clear milestones for the delivery of all relevant actions in the Action Plan with NHS Improvement.

1.4 The Licensee will report to NHS Improvement on delivery against the Action Plan in an agreed format and to agreed timescales.

1.5 The Licensee will keep the Action Plan under review and agree any necessary amendments with NHS Improvement where required.

2. Programme Management

2.1 Notwithstanding improvements to financial governance included in the Action Plan the Licensee will implement appropriate programme management and governance arrangements to facilitate the delivery of these undertakings; and its cost improvement plans. Such arrangements must enable the Board of the Licensee to:

2.1.1 Obtain clear oversight of the progress of delivery of these programmes of work;

2.1.2 Obtain an understanding of any risks to the successful delivery of these programmes of work and ensure appropriate mitigation; and

2.1.3 Hold individuals to account for delivery of these programmes of work.

2.2 The licensee will ensure that its arrangements have appropriate clinical, operational and financial resource.

2.3 The licensee will ensure that its arrangements meet the current needs of the business and keep the structure and function 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.

3. Budget Reforecast

3.1 The licensee will, by a date agreed with NHS Improvement, submit an FY19 budget reforecast to NHS Improvement. The reforecast will include:

3.1.1 A summary of changes made from the original FY19 budget;

3.1.2 An analysis of the underlying and recurrent I&E position to assess any potential impact on FY20 performance;

3.1.3 A downside analysis that takes into account a reasonable set of FY19 downside risks and proposed mitigations.

3.2 The Licensee will continue to co-operate with NHS Improvement and report by exception any emerging risks to delivery of FY19 budget or the reforecast.

4. Reporting

4.1 The Licensee will submit progress reports to NHS Improvement against all of the plans referred to in these undertakings (the Action Plan and implementation of programme management) on a monthly 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 Chief Financial Officer.

5. Meetings

- 5.1 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 month 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: 10 September 2018

**NHS Improvement**



Signed ([Chair] [~~Member~~] of the Regional Support Group (South))

Dated 10 September 2018