

ENFORCEMENT UNDERTAKINGS

LICENSEE:

The Dudley Group NHS Foundation Trust
Russell's Hall Hospital
Pensnett Road
Dudley
West Midlands
DY1 2HQ

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.

GROUNDINGS

1. Licence

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

BREACHES

2. Quality and 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: FT4(4)(a), (b) and (c); FT4(5)(a), (b), (c), (e) and (f); FT4(6)(a), (b), (c), (d), (e) and (f).

2.2 In particular:

- The Licensee underwent a series of inspections by the CQC over a 6-month period, which resulted in the issue of several section 31 letters. Unannounced visits by the CQC were carried out, including on 28 June 2018 and 08/09 August 2018, following which further section 31 letters were issued on both occasions. These inspections demonstrated that the Trust has been unable to mitigate effectively, or address the key concerns identified by the CQC. The Licensee was rated by the CQC overall as: 'Requires Improvement'. However, Urgent and Emergency Care were rated as 'Inadequate' overall and for safe and well-led. All other domains were assessed as 'Requires improvement'.

- The CQC issued section 31 letters on 12 January 2018, on 5 February 2018, on 29 June 2018 and on 17 August 2018, and include the following concerns:

12 January 2018

- (a) The lack of an effective system in place to identify, escalate and manage patients who may present with sepsis or a deteriorating medical condition in line with the relevant national clinical guidelines.
- (b) The lack of sufficient numbers of suitably qualified, skilled and experienced registered nurses at all times within the Emergency Department and immediate medical assessment unit to meet the needs of patients.

5 February 2018

- (c) The lack of an effective system in place to assess all patients clinically in a robust way who present, within 15 minutes of their arrival
- (d) The lack of effective governance arrangements with all third-party organisations providing healthcare services at the Russell's Hall Hotel.

28 June 2018

- (e) A further unannounced visit by the CQC took place on 28 June 2018 at the Emergency Department. This resulted in the CQC issuing a further section 31 letter which varied the conditions imposed on 12 January and 5 January. This inspection demonstrated that the Trust, to date, has been unable to mitigate or address the key concerns identified by the CQC effectively.

08 & 09 August 2018

- (f) A further unannounced visit by the CQC took place on 08 and 09 August 2018 at the Emergency Department, following which CQC issued a further S31 improvement notice on 17 August. This relates to clinician competence and requires the trust to ensure that specialist clinical expertise is secured to ensure expertise across the Emergency Department.

2.3 These breaches by the Licensee demonstrate a failure of governance arrangements in particular but not limited to a failure by the Licensee to ensure appropriate systems and standards of governance, adequate oversight by the Board and establishment and implementation of associated governance systems and processes including those relating to quality and to ensure appropriate and sufficient capacity.

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. Quality Improvement Plan

- 1.1. The Licensee will take all reasonable steps to address the concerns identified in, but not limited to, the CQC Reports, including carrying out the actions set out in the CQC Report in accordance with timescales as determined by the CQC such that, upon re-inspection by the CQC within 12 months of the date of the CQC Report (or such other date as CQC may determine), the Licensee will no longer be found to be 'inadequate' in any of the CQC domains in relation to Urgent and Emergency Care.
- 1.2. The Licensee will develop a comprehensive Quality Improvement Plan submitted to NHS Improvement by 12 October 2018 (QIP) including demonstrating that it has sufficient capacity at both executive and other levels of management to enable delivery of the QIP.
- 1.3. The Licensee will consult with relevant stakeholders during the delivery of the QIP, including NHS Improvement, CQC and NHS England. Consultation will take place via the single system oversight and assurance group, led by NHS Improvement, established to provide system support to the Licensee in the delivery of the QIP. The Licensee will modify the QIP if instructed by NHS Improvement.
- 1.4. The Licensee will keep the QIP and its delivery under review. Where matters are identified which materially affect the Licensee's ability to deliver the QIP, whether identified by the Licensee or another party, the Licensee will notify NHS Improvement as soon as practicable and update and resubmit the QIP within a timeframe to be agreed by NHS Improvement.
- 1.5. The Licensee will ensure that the delivery of the QIP and other measures to improve quality and operational performance do not compromise its overall financial position. The Licensee will keep the financial cost of its quality improvements under close review and will notify NHS Improvement as soon as practicable of any matters which are

identified as potentially having a material impact on the Licensee's overall financial position.

- 1.6 The Licensee will arrange with NHS Improvement and with local partners a series of clinical visits to the Emergency Department and associated areas each quarter to review and assess progress against the implementation of the QIP. The scope and the review team is to be agreed by NHS Improvement.

2. Improvement Director

- 2.1 The Licensee will co-operate and work with the recently Improvement Director who will oversee and provide independent assurance to NHS Improvement on the Licensee's delivery of the QIP and the quality of care the Licensee provides.

3. Buddy Trust and other Partner Organisations

- 3.1 The Licensee will co-operate and work with any partner organisations (this may include one or more 'Buddy Trusts') who may be appointed by NHS Improvement to:

- 3.1.1 support and provide expertise to the Licensee; and
- 3.1.2 assist the Licensee with the delivery of the QIP and the improvement of the quality of care the Licensee provides.

- 3.2 The Licensee will work with any such partner organisations on such terms as may be specified by NHS Improvement.

4. Board Effectiveness

- 4.1. The Licensee will take all reasonable steps to address the governance concerns identified in the CQC Report and elsewhere.
- 4.2. The Licensee will fully engage with an external review if required by NHS Improvement to explore the capacity and capability of the board leadership.
- 4.3. If an external review is commissioned, the Licensee will develop and submit a plan to NHS Improvement, including key milestones, setting out the steps which it will take to comply with the review recommendations (the 'Board Effectiveness Plan'). The Licensee will modify the Board Effectiveness Plan if instructed by NHS Improvement.
- 4.4. The Licensee will deliver the Board Effectiveness Plan by a date to be agreed with NHS Improvement and will meet the key milestones.

5. Programme Management

- 5.1 The Licensee will implement programme management and governance arrangements to facilitate the delivery of these undertakings. Such arrangements must enable the Board to:
 - obtain a clear oversight of the progress in delivering these undertakings;

- obtain an understanding of any risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
- hold individuals to account for delivery of the undertakings.

5.2 The Licensee will provide to NHS Improvement direct access to its advisors, programme leads and the Licensee's board members as needed in relation to the matters covered by these undertakings.

6. Meetings

6.1 The Licensee shall attend meetings (or if NHS Improvement stipulates conference calls) with NHS Improvement during the currency of any of the compliance requirements detailed in this notice to discuss its progress in meeting these compliance requirements.

6.2 These meetings shall take place once a month unless NHS Improvement otherwise stipulates at a time and place to be specified with NHS Improvement and with the 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, 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 THE DOLEY GROUP NHS FT

Signed

David Jennin Oid

[Chair] or [Chief Executive] of Licensee

Dated: 5.10.18

NHS IMPROVEMENT

Signed

D. Bywater

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

Dated: 10/10/18