

Appendix 1: Draft Enforcement Undertakings

NHS TRUST:

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DECISION:

On the basis of the grounds set out below and pursuant to the powers exercisable by NHS Improvement under or by virtue of the National Health Service Act 2006 and the TDA Directions, NHS Improvement has decided to accept undertakings from the Trust.

DEFINITIONS:

In this document:

“the conditions of the Licence” means the conditions of the licence issued by Monitor under Chapter 3 of Part 3 of the Health and Social Care Act 2012 in respect of which NHS Improvement has deemed it appropriate for NHS trusts to comply with equivalent conditions, pursuant to paragraph 6(c) of the TDA Directions;

“NHS Improvement” means the National Health Service Trust Development Authority;

“TDA Directions” means the National Health Service Trust Development Authority Directions and Revocations and the Revocation of the Imperial College Healthcare National Health Service Trust Directions 2016.

GROUND

1. The Trust

The Trust is an NHS trust, all or most of whose hospitals, facilities and establishments are situated in England.

2. Issues and need for action

2.1 NHS Improvement has reasonable grounds to suspect that the Trust has provided and is providing health services for the purposes of the health service in England while failing to comply with the following conditions of the Licence: FT4(5)(c).

2.2 In particular:

- 2.2.1 the Trust's A&E performance throughout the entirety of 2016/17 was poor and fell below 80% for December 2016, and January and February 2017. For the period April 2017 to December 2017 performance has ranged between 72% and 91%;
- 2.2.2 the Trust submitted a 2016/17 trajectory linked to Sustainability and Transformation Funding (STF) which forecast improvement for A&E performance from 92.5% in Quarter 1 2016/17 to 95.3% in Quarter 4 2016/17. During 2016/17 performance deteriorated to 77.9% in Quarter 4 a variation of 17.5% from trajectory;
- 2.2.3 the Trust's A&E performance deteriorated further during Quarter 4 of 2016/17;
- 2.2.4 the Trust has performed below the 95% A&E standard for the period April 2017 to December 2017 and below the 90% trajectory. Performance has been in the range of 72% to 91%;

2.3 These failings by the Trust demonstrate a failure of governance arrangements including, in particular, failure to establish and effectively implement systems or processes to ensure compliance with healthcare standards binding on the Trust.

2.4 Need for action:

NHS Improvement believes that the action which the Trust has undertaken to take pursuant to these undertakings, is action required to secure that the failures to comply with the relevant requirements of the conditions of the Licence do not continue or recur.

UNDERTAKINGS

NHS Improvement has agreed to accept and the Trust has agreed to give the following undertakings.

1 A&E Performance

- 1.1 The Trust will continue to take all reasonable steps to deliver A&E services on a sustainable basis and meet the four hour accident and emergency national standard, including but not limited to the actions outlined below:
 - 1.1.1 The Trust will continue to implement all the actions under its control in its A&E improvement plan (the Plan), within the timescales set out in the Plan, unless otherwise agreed with NHS Improvement;
 - 1.1.2 The Trust will continue to keep the elements of the Plan within its control and for which it has responsibility and delivery under review;
 - 1.1.3 The Trust will take all reasonable steps to ensure that it has sufficient capability and capacity to implement the Plan;
 - 1.1.4 The Trust will continue to engage proactively with all improvement support;

1.1.5 The Trust will work with system partners to strengthen system governance through the A&E Delivery Board, to timescales to be agreed with NHS Improvement;

1.2 Where matters are identified by either NHSI or the Trust which materially affect the Trust's ability to meet these requirements, the Trust will:

1.2.1 notify NHS Improvement as soon as practicable if identified by the Trust;

1.2.2 if required by NHS Improvement, update and resubmit the Plan for agreement by NHS Improvement, within a timeframe to be agreed with NHS Improvement.

2 Meetings and reports

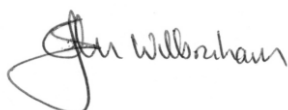
2.1 The Trust will attend meetings or, if NHS Improvement stipulates, conference calls, at such times and places, and with such attendees, as may be required by NHS Improvement.

2.2 The Trust will provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

Any failure to comply with the above undertakings may result in NHS Improvement taking further regulatory action. This could include giving formal directions to the trust under section 8 of the National Health Service Act 2006 and paragraph 6 of the TDA Directions.

THE TRUST

Signed



(Chair or Chief Executive of Trust)

Dated 13/03/18

NHS IMPROVEMENT

Signed



Member of the Regional Provider Support Group North Region

Dated 13/03/18