

## **UNDERTAKINGS**

### **NHS TRUST:**

Barking, Havering and Redbridge University Hospitals NHS Trust ("the Trust")  
King George Hospital  
Barley Lane  
Goodmayes  
Essex IG3 8YB

Queen's Hospital  
Rom Valley Way  
Romford  
Essex RM7 0AG

### **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.

### **BACKGROUND: PREVIOUS AND CURRENT REGULATORY ACTION**

NHS Improvement accepted undertakings from the Trust on 8 August 2017 ("the previous undertakings").

In this document, any reference to previous undertakings means those undertakings as may have been varied from time to time.

The following paragraphs refer to the sections entitled "Undertakings" in the previous undertakings and are hereby superseded:

Paragraphs 3, 4.1 - 4.6 of the previous undertakings.

The undertakings below are without prejudice to any existing mandated support that remains in place in relation to the Trust, including the previous undertakings.

### **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 accepts undertakings from the Trust.

## GROUNDINGS:

### 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: CoS3(1)(b), FT4(2), FT4(4)(a),(c), FT4(5)(a),(b),(c),(d),(e),(f),(g), and FT4(7)

2.2. In particular:

2.2.2 The Trust reported a deficit of £61m for 2017/18 compared to its financial plan of £1.6m surplus, and its agency spend was £33.8m compared to its agency ceiling of £22.8m for 2017/18. In addition, the Trust has made unplanned requests for cash support, and received total cash support of £104m in 2018/19.

2.2.3 The Trust Board was not sufficiently sighted and did not take sufficient recovery action on the financial deterioration.

2.2.4 To date, the Trust has breached the Accident and Emergency 4 hour maximum waiting time target ("the A&E standard") each quarter during 2017/18. In addition, the Trust failed to meet the A&E standard in any quarter since Q1 2013/14. The Trust has failed to address its A&E performance sustainably over this period and has not fully delivered the actions required in its previous A&E plan submitted to NHS Improvement.

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:

- (a) to ensure compliance with the Trust's duty to operate efficiently, economically and effectively;
- (b) for timely and effective scrutiny and oversight by the Board of the Trust's operations;
- (c) 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. Finance

### *2018/19 Recovery Measures*

- 1.1 The Trust must consider and take any immediate steps possible, while maintaining quality services, to rapidly improve its 18/19 financial position and implement grip and control measures as advised by the Financial Improvement Director to improve on and deliver the 18/19 forecast outturn position.

### *Financial recovery plan*

- 1.2 The Trust will rapidly identify and set out in writing and submit to NHS Improvement, no later than 3 working days before the first Progress Review Check meeting following signature of these undertakings, the following:
  - 1.2.1 a robust understanding of the underlying causes of the Trust's financial position that need to be addressed to ensure the Trust's financial recovery (the Diagnostic); and
  - 1.2.2 taking into account the Diagnostic, a detailed Board-approved financial recovery plan (FRP) to deliver or better an out-turn deficit for 18/19 of a figure to be agreed with NHS Improvement, and to return to surplus within 3 years excluding Provider Sustainability Funding.
- 1.3 The scope and detailed content of the FRP will be as agreed with NHS Improvement but will include:
  - 1.3.1 actions to address the key issues identified, including a high level milestone plan for delivery of the Trust's key schemes to deliver the FRP;
  - 1.3.2 actions to work with the local Clinical Commissioning Groups to contribute to the financial recovery of the local health economy;
  - 1.3.3 the monthly phasing of and assurance on delivery of the FY18/19 CIPs (including the Trust's internal assurance approach);
  - 1.3.4 a credible trajectory to a surplus position, excluding Provider Sustainability Funding, within 3 years;
  - 1.3.5 details of extra controls and other measures the Trust has already put in place since being put into Special Measures for financial reasons to immediately strengthen financial control, which may relate, for example, to staff pay costs, procurement, cash, delegated financial limits and programme management offices; and



- 1.3.6 details of how the Trust will deploy sufficient resources to ensure implementation of the FRP.
- 1.4 The FRP must reflect the CQC's Use of Resources assessment of 22 June 2018 and be robust, quality-assured and agreed by the Trust's board;
- 1.5 When developing the FRP, the Trust will engage effectively with key stakeholders, including commissioners, and will reflect their views appropriately in the FRP;
- 1.6 The Trust will take all reasonable steps to secure that it is able to deliver the FRP once approved by NHS Improvement.

#### *FRP delivery*

- 1.7 The Trust will demonstrate to NHS Improvement a period of successful implementation of the FRP and assurance of continued focus, capability and capacity to sustainably maintain financial recovery and deliver the FRP.
- 1.8 If required by NHS Improvement the Trust will develop, and agree with NHS Improvement, a set of metrics that will enable the Trust to assess the delivery and impact of the FRP.

#### *Financial Improvement Director*

- 1.9 The Trust will co-operate and work with a Financial Improvement Director appointed by NHS Improvement to oversee and provide independent assurance to NHS Improvement on the Trust's actions to deliver its financial recovery, including the FRP;
- 1.10 The Trust will provide the Financial Improvement Director and their team with full access to the Trust's key personnel, meetings, resources and information during the Financial Special Measures period.

#### *Financial Control*

- 1.11 The Trust will comply with any arrangements specified by NHS Improvement for the approval of the Trust's decisions on expenditure.

#### *Reporting*

- 1.12 The Trust will meet with the NHS Improvement Executive Sponsor and other representatives of NHS Improvement, including the Financial Improvement Director, for a 'Progress Review Check meeting' at dates to be agreed with NHS Improvement. The purpose of each Progress Review Check is to determine the Trust's progress in meeting the undertakings set out above in paragraph 1. The Trust will provide a slide pack to NHS Improvement at least

3 working days before each Progress Review Check to update NHS Improvement on its progress since the last such meeting;

- 1.13 The Trust will attend other meetings or, if NHS Improvement stipulates, conference calls, during the period of Financial Special Measures to discuss its progress. These meetings will, unless NHS Improvement stipulates otherwise, take place at times and places to be specified by NHS Improvement and with attendees specified by NHS Improvement.

## 2. Leadership and governance

- 2.1 The Trust will produce and submit to NHS Improvement a plan (“governance plan”) to address the findings of any investigation or review relating to the Trust’s leadership and governance commissioned in response to the matters referred to in paragraph 2.2 of the Grounds of these undertakings. The governance plan must include such timeframes for addressing those findings as agreed by NHS Improvement, and must be submitted on such date as agreed by NHS Improvement. The Trust will provide assurance to NHS Improvement, if requested, on progress with delivery of the governance plan.
- 2.2 The Trust must ensure that it has in place sufficient and effective board, management and clinical leadership capacity and capability, as well as appropriate governance systems and processes, to enable it to comply with these undertakings and address the matters referred to in paragraph 2 of the Grounds of these undertakings.

## 3. Operational

### A&E

- 3.1 The Trust will produce and submit to NHS Improvement, by a date to be agreed with NHS Improvement, an updated Board-approved Emergency Care Action Plan (“the A&E plan”) to achieve compliance with the A&E recovery trajectory to be agreed with NHS Improvement.
- 3.2 The Trust will keep the A&E plan under review, and submit it to NHS Improvement on request.
- 3.3 The Trust will continue to work with external bodies including, but not limited to its host clinical commissioning group, Healthy London Partnership and the Emergency Care Improvement Programme, to provide assistance in making recommendations for improvement and incorporating these into the A&E plan where appropriate.
- 3.4 The A&E plan will include, in particular:
  - 3.4.1. A narrative of the current drivers of performance below the A&E standard;

- 3.4.2 An assessment of what previous interventions to improve performance have not worked and why, and what interventions are currently working;
  - 3.4.2. The Trust's planned actions, in conjunction with system partners, to improve A&E performance at the Trust. The actions should include key performance indicators against each action, to enable the Trust to assess the delivery and impact of the A&E plan, and the expected impact on overall A&E performance; and
  - 3.4.3. The Trust's trajectory to delivery of the A&E standard.
- 3.5 The Trust will implement all the actions in the A&E plan within its control within the timescales set out in the A&E plan, unless otherwise agreed by NHS Improvement.
- 3.6 The Trust will take all other reasonable steps to deliver compliance with the 95% A&E standard on a sustainable basis.
- 3.7 The Trust will provide to NHS Improvement a monthly Board-approved report on progress against the A&E plan, which includes the following:
- 3.7.1. Progress being made against the key milestones;
  - 3.7.2. An assessment of whether there are any areas of slippage against milestones and, if so, how performance will be recovered and monitored; and,
  - 3.7.3. Any key risks to delivery of the Plan, and the related mitigations.
- 3.8 The Trust will demonstrate to NHS Improvement, in a form to be agreed with NHS Improvement, that it is able to deliver the A&E plan, including demonstrating that it has sufficient capacity at both executive and other levels of management (including programme management resource), to enable delivery of the A&E plan.

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

(Chair or Chief Executive of Trust)

Dated

24/9/18.



Trust CEO

24/9/18.



**NHS IMPROVEMENT**

Signed:

A handwritten signature in black ink that reads "Steve Russell". The signature is written in a cursive style with a horizontal line underneath the name.

Steve Russell

Executive Regional Managing Director (London)

Dated 3 September 2018





## AMENDMENTS TO UNDERTAKINGS

### TRUST:

Barking, Havering and Redbridge University Hospitals NHS Trust ("the Trust")  
King George Hospital  
Barley Lane  
Goodmayes  
Essex IG3 8YB

Queen's Hospital  
Rom Valley Way  
Romford  
Essex RM7 0AG

In this document, 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.

The Trust and NHS Improvement have agreed the following variations to the terms of the Undertakings originally accepted from the Trust by NHS Improvement on 8 August 2017:

1. After paragraph 1.2, insert the following paragraph:

1.2A The Trust will amend the QIP to address any additional concerns identified by the CQC in any reports subsequent to the Report.

**This variation is agreed pursuant to the powers exercisable by NHS Improvement under or by virtue of the National Health Service Act 2006 and the TDA Directions.**

**All other terms of the original Undertakings accepted from the Trust by NHS Improvement on 8 August 2017 remain unchanged.**

Signed on of behalf of the Trust

Name: *Joe Fielder* *Chris Bown*

Position: *CHAIR* *Interim CEO*

Signature:



Date:

*24/9/18*

*27/9/18.*

Signed on of behalf of NHS Improvement

Name: Steve Russell

Position: Executive Regional Managing Director (London)

Signature:



Date: 3 September 2018

