

UNDERTAKINGS

NHS TRUST:

Barts Health NHS Trust, 80 Newark Street, London, E1 2ES

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;

“The CQC Reports” means the report on the Trust following inspections in June 2017 and the following reports on the Trust’s hospitals:

- Royal London Hospital, published 13/10/2017
- Newham Hospital, published 28/04/2017
- Whipps Cross Hospital, published 15/12/17, 12/09/2017, 21/06/18
- St Bartholomew’s Hospital, published 20/09/2017
- Newham Hospital, Maternity and Gynaecology services specifically, published 20/12/17

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: FT4(5)(a) to (d), and FT4(5)(f)¹.

2.2. In particular:

Finance

- 2.2.1. The Trust has been in Special Measures for financial reasons (FSM) since September 2016.
- 2.2.2. The Trust has identified a two year proposal to reach financial breakeven but recognises the need for significant work to develop plans in greater detail and the related need for support from NHS Improvement. It is recognised an element of the proposal assumes continued Provider Sustainability Funding consistent with current mechanisms and relief for certain PFI contracts, which are outside of the Trust's control.
- 2.2.3. There is evidence to show there is a need for improvement in planning, governance and how the Trust delivers efficiency and cost improvements to ensure sustainable improvement in financial performance.

Quality

- 2.2.4. The Trust has been in Quality Special Measures since March 2015 following Care Quality Commission (CQC) inspections in November 2014 and February 2015.
- 2.2.5. Following the most recent CQC inspections, each site at the Trust has a rating of 'Requires Improvement' as a minimum.
- 2.2.6. Whilst the Trust has made improvements in quality of care, the issues identified by the CQC in its inspections and visits in June and July 2017 and April 2018 in particular demonstrate that the Trust still needs to improve its governance to ensure embedded and sustained improvement.

Operational performance

- 2.2.7. The Trust returned to reporting in May against the 18 week referral to treatment (RTT) standard for the first time in three years. Current performance is materially below the required standard. The Trust is developing a plan to return to the national standard.
- 2.2.8. The Trust has not achieved the A&E standard in month for over 3 years and current performance is materially below the required standard.

2.3. Need for action:

¹ *This paragraph uses the standing wording adopted in enforcement undertakings for both NHS trusts and NHS foundation trusts. It reflects the statutory test which applies to enforcement undertakings for NHS foundation trusts (section 106 of the Health and Social Care Act 2012) and is consistent with NHS Improvement's policy that providers should be treated similarly and that the conditions of the NHS provider licence are the basis for its oversight of both NHS trusts and NHS foundation trusts.*

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. Financial sustainability

18/19 financial plan

- 1.1. The Trust will submit, in timelines to be agreed by NHS Improvement, a detailed financial plan to deliver such financial objectives for 2018/19 as agreed with NHS Improvement.
- 1.2. The scope and detailed content of the finance plan will be as agreed with NHS Improvement, but will include:
 - 1.2.1. a fully approved cost savings plan consistent with delivering the 2018/19 financial objectives as agreed with NHS Improvement;
 - 1.2.2. appropriate arrangements for monitoring with leading and lag indicators, consistent with Trust wide activity, workforce and CIP plans;
 - 1.2.3. details of how the Trust will deploy sufficient resources to ensure implementation of the plan.
- 1.3. The Trust will demonstrate to NHS Improvement, within a timescale specified by NHS Improvement, a period of successful implementation of the financial plan and assurance of continued focus, capability and capacity to sustainably maintain financial recovery.

Longer term financial sustainability

- 1.4. The Trust will submit, within a timescale agreed with NHS Improvement, a 3 year financial improvement programme that will provide satisfactory assurance to NHS Improvement that the Trust will achieve, in NHS Improvement's opinion, sufficient progress towards financial sustainability, taking into account assumptions on STF funding and relief for certain PFI contracts.
- 1.5. The programme will include:
 - 1.5.1. an analysis of the drivers of the Trust's financial position and the tactical, transformational, configurational and strategic elements to resolve;
 - 1.5.2. a two-year rolling CIP programme with governance to continue this approach;
 - 1.5.3. robust demand & capacity planning integrated into operational, workforce and financial planning; and

- 1.5.4. a wider estates review and strategy, which will seek to further rationalise the Trust's estates footprint.

Financial Improvement Director

- 1.6. The Trust will co-operate and work with any Financial Improvement Director(s) who may be appointed by NHS Improvement to oversee, support, and provide independent assurance to NHS Improvement on the Trust's delivery of financial recovery. The scope of the role will be determined by NHS Improvement after discussion with the Trust.

2. Quality Improvement Plan (QIP)

- 2.1. The Trust will implement its Quality Improvement Plan ("QIP") and take all reasonable steps to achieve the objective specified in paragraph 2.2.
- 2.2. The objective referred to above is that upon re-inspection by the CQC:
 - 2.2.1. the Trust can demonstrate that it has addressed the "must do" actions to the CQC's satisfaction;
 - 2.2.2. the trust can demonstrate that it has addressed the issues raised in the warning notice issued by the CQC following the inspection of Surgery at Whipps Cross in April 2018;
 - 2.2.3. no core service at any of the Trust's hospitals is rated as "inadequate" overall by the CQC;
 - 2.2.4. for each of the core services at the Trust's hospitals that were rated as "requires improvement" overall, the rating in at least one domain improves from "inadequate" or "requires improvement" to "good" or "outstanding"; and
 - 2.2.5. the CQC recommends that the Trust exits quality special measures.

Improvement Director - Quality

- 2.3. The Trust will co-operate and work with any Improvement Director(s) who may be appointed by NHS Improvement to oversee, support, and provide independent assurance to NHS Improvement on the Trust's delivery of the QIP and improvement of quality of care the Trust provides. The scope of the role will be determined by NHS Improvement after discussion with the Trust.

3. Operational performance

RTT

- 3.1. The Trust will take all reasonable steps to:
 - 3.1.1. implement the findings of the external review into RTT reporting received by the Trust in March 2018;
 - 3.1.2. reduce the volume of individuals waiting 52 weeks or more to acceptable levels (to be agreed with NHS Improvement) by the end of March 2019; and

3.1.3. return to compliance with the standard by September 2019.

3.2. The Trust will provide assurance to NHS Improvement, at such times as NHS Improvement may specify, that it will achieve the operational requirements specified in paragraph 3.1.

A&E

3.3. The Trust will take all reasonable steps to deliver compliance with the A&E trajectory agreed with NHS Improvement, including but not limited to the actions below:

- 3.3.1. Work with system partners to develop a shared diagnosis of the causes of under-performance against the A&E 4 hour standard at the Whipps Cross and Royal London sites, including an assessment of what previous interventions have not worked and why. The diagnosis will be approved by the Trust's board and will be shared with partners and completed on such dates as NHS Improvement may specify;
- 3.3.2. Work with system partners to develop plans to address these causes which are approved by the Trust's board;
- 3.3.3. Develop, and agree with NHS Improvement, a set of metrics that will enable the trust to assess the delivery and impact of the plans;
- 3.3.4. At a date specified by NHS Improvement share and agree these plans with NHS Improvement, and make any changes to the plans as requested by NHS Improvement;
- 3.3.5. Deliver and implement all actions of the plans which are within the responsibility of the Trust within the timescales set out in the plan or otherwise committed to by the Trust;
- 3.3.6. At all the Trust's sites, take such other steps as necessary to deliver the trajectory of compliance with the A&E standard by March 2019; and
- 3.3.7. At all the Trust's sites, continue to work with and support the Emergency Care Improvement Programme (ECIP) unless agreed otherwise by NHS Improvement.

3.4. The Trust will provide to NHS Improvement a monthly report on progress against the A&E plans, which includes the following:

- 3.4.1. progress being made against the key milestones;
- 3.4.2. if there are any areas of slippage against milestones, how performance will be recovered and monitored; and,
- 3.4.3. any key risks to delivery of the Plan, and the related mitigations.

4. Meetings, reports and access

- 4.1. 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. This will include regular "Oversight" meetings with the NHS Improvement Executive Sponsor and other representatives of NHS Improvement.
- 4.2. The Trust will comply with any additional reporting or information requests made by NHS Improvement in relation to the matters covered by these undertakings.
- 4.3. The Trust will provide to NHS Improvement full and direct access to its advisors, its board members, any other members of its staff and meetings, considered necessary by NHS Improvement, as needed in relation to the matters covered by these undertakings.
- 4.4. Where matters are identified which materially affect the Trust's ability to meet the requirements within these undertakings, whether or not identified by the Trust, the Trust will:
 - 4.4.1. notify NHS Improvement as soon as practicable; and
 - 4.4.2. update and resubmit relevant plans for agreement by NHS Improvement, within a timeframe to be agreed with NHS Improvement.
- 4.5. The Trust will report to NHS Improvement on the implementation of the plans monthly or an alternative frequency if required by NHS Improvement.

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



Ian Peters, Chair of Barts Health NHS Trust

Dated: 27 July 2018

NHS IMPROVEMENT

Signed



Steve Russell

Executive Regional Managing Director (London) and Chair of the Regional Provider Support Group (London)

Dated 03/03/18

