

## Enforcement Undertakings

### **NHS Trust:**

Dartford and Gravesham NHS Trust  
Darent Valley Hospital,  
Darenth Wood Road,  
Dartford,  
Kent  
DA28DA

### **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 (the "TDA");

"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;

"Trust" means the Dartford and Gravesham NHS Trust.

### **GROUNDINGS**

#### 1. The Trust

The Trust is an NHS trust all or most of whose hospitals, facilities and establishment 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 healthcare services for the purposes of the NHS while failing to comply with the following Conditions of the Licence: standard condition FT4.

2.2. In particular:

### *Quality issues*

2.2.1. In November 2017, CQC carried out a core service inspection following which a letter of concern was sent to the Trust on 16th November 2017 outlining significant concerns which included adherence to infection prevention and control (IP&C) policies and procedures; patient experience, workforce and governance. The well-led element of CQC's inspection was completed in December 2017, and the final report was published in March 2018. The 2018 CQC report rated the Trust overall as 'requires improvement' but highlighted deterioration in the well led, safe and effective domains. Compliance breaches to regulated activity were dignity and respect, safe care and treatment, safeguarding, premises and equipment, staffing and good governance. The report set out a range of actions that the Trust was required to take in order to meet the standards that were not being met.

### *Financial issues*

2.2.2. In 2017/18 the Trust was unable to deliver its Financial Recovery Plan and ended the year with a deficit of £15.8m including STF of £2.8m (18.6m deficit excluding STF); £17.4m adverse to its Control Total. This resulted in a score of 4 for the use of resource risk rating metric which is a trigger for mandated support under the NHSI Single Oversight Framework.

2.2.3. While the Trust plan for 2018/19 targets an improvement in the financial position, the risk to delivery is high, with 30% of the cost improvement programme considered high risk.

### *Leadership and governance issues*

2.2.4. In CQC's inspection report published in March 2018, the rating of well-led deteriorated from Good to Requires Improvement. CQC commented that the trust board members had a wide range of experience, knowledge and skills, although commented that most were relatively new to their posts. CQC found that there was a lack of clarity regarding the structure amongst executive teams, middle managers and staff. CQC also stated that the board was not always assured of safety and quality through its governance structures. Although there was a governance structure in place, inspection findings showed that it was not always effective.

2.3. These breaches by the Trust demonstrate a suspected failure of governance arrangements including, in particular:

Failure to establish and implement clear responsibilities for its Board, for committees reporting to the Board, and for staff reporting to the Board and those committees:

Failure to establish and implement clear reporting lines and accountabilities throughout its organisation:

Failure to establish and effectively implement systems and processes:

to ensure compliance with the Trust's duty to operate efficiently, economically and effectively;  
for timely and effective scrutiny and oversight by the Board of the Trust's operations;  
to ensure compliance with healthcare standards binding on the Trust;  
to ensure the matters relating to quality of care specified in condition FT4 of the Conditions of the Licence;  
of corporate and financial management suitable for a provider of NHS services and which provide reasonable safeguards against the risk of being unable to carry on as a going concern;  
for effective financial decision making, management and control;  
for identifying and managing (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of the Licence;

#### 2.4. Need for action

2.4.1. NHS Improvement believes that the actions, which the Trust has undertaken to take pursuant to these undertakings, is action required to secure that the governance failures in question do not continue or recur.

## UNDERTAKINGS

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



### 1. Governance

- 1.1. The Trust will take all reasonable steps to put in place principles, systems and standards of governance which would reasonably be regarded as appropriate for a supplier of healthcare services to the NHS.
- 1.2. In meeting the requirements of paragraph 1.1, the Trust will, in particular:
  - 1.2.1. Procure a well-led governance review (the 'Well-led Review'), to a scope and timescale and from a supplier to be agreed with NHS Improvement; and
  - 1.2.2. Consolidate the findings of existing reviews and the Well-led Review into a comprehensive plan for improving the Trust's principles, systems and standards of governance (the 'Governance plan'), to be agreed by the Trust's Board and NHS Improvement, and demonstrate that it can deliver that plan.

### 2. Quality

- 2.1. The Trust will take all reasonable steps to respond to the findings of the 2018 CQC report which would reasonably be regarded as appropriate for a supplier of healthcare services to the NHS.

2.2. In meeting the requirements of paragraph 2.1, the Trust will, in particular<sup>1</sup>:

2.2.1. Consolidate the findings into a comprehensive quality improvement plan with clear milestone for improvement to address the finding of the 2018 CQC report including all must do and should do actions ("QIP"). The QIP should be agreed by the Trust's Board and NHS Improvement.

2.2.2. The Trust must demonstrate that it has delivered against the QIP.

### 3. Financial sustainability

3.1. The Trust will take all reasonable steps to reduce the Trust's current deficit and return to financial sustainability.

3.2. In meeting the requirements of paragraph 3.1 the Trust will in particular:

3.2.1. Develop and submit a Financial Recovery Plan and trajectory, to be agreed by the Trust Board and by NHS Improvement (the 'FRP') and demonstrate that it can deliver that plan;

3.2.2. Undertake a comprehensive review of the underlying drivers of the Trust's deficit, to a scope and timescale to be agreed with NHS Improvement; and incorporate the findings into the FRP.

3.2.3. The FRP should be aligned with local commissioner and Sustainability and Transformation Plans and should reflect the outputs of system demand and capacity analysis.

3.3. Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Trust under Schedule 5 to the National Health Service Act 2006, the Trust will comply with any terms and conditions which attach to the financing.

3.4. Where the Trust receives payments from the Provider Sustainability Fund, the Trust will comply with any terms or conditions which attach to the payments.

3.5. The Trust will comply with any spending approvals processes that are deemed necessary by NHS Improvement.

### 4. Development and delivery of plans

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- 4.1. The Trust will ensure that the Governance Plan, Quality Improvement Plan and Financial Recovery Plan (together, the 'Plans') are developed and delivered in a robust and coherent manner which enables to Trust meet the requirements of paragraphs 1.1, 2.1 and 3.1.
- 4.2. In meeting the requirements of paragraph 4.1 the Trust will, in particular, ensure that the Plans:
  - 4.2.1. Form a single, coherent and integrated approach to addressing the challenges facing the Trust, together with the Trust's other key plans;
  - 4.2.2. Include the actions required to meet the requirements of paragraphs 1.1, 2.1 and 3.1, with appropriate timescales, resourcing and clear accountabilities to clinical and non-clinical action owners;
  - 4.2.3. Describe the key risks to meeting the requirements of paragraphs 1.1, 2.1 and 3.1 and mitigating actions being taken;
  - 4.2.4. Describe how the Trust will assess progress, including the measures to be used; and
  - 4.2.5. Are submitted by a date agreed by NHS Improvement, for discussion and agreement with NHS Improvement.
- 4.3. The Trust will keep the Plans and their delivery under review and provide appropriate assurance to its Board regarding progress towards meeting the requirements of paragraphs 1.1, 2.1 and 3.1, such assurance to be provided to NHS Improvement on request. Where matters are identified which materially affect the Trust's ability to meet the requirements of paragraphs 1.1, 2.1 and 3.1, whether identified by the Trust or another party, the Trust will notify NHS Improvement as soon as practicable and update and resubmit the affected plan(s) within a timeframe to be agreed with NHS Improvement.

## 5. Programme management

- 5.1. The Trust will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.
- 5.2. Such programme management and governance arrangements must enable the board to:
  - 5.2.1. obtain clear oversight over the process in delivering these undertakings;
  - 5.2.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
  - 5.2.3. hold individuals to account for the delivery of the undertakings.

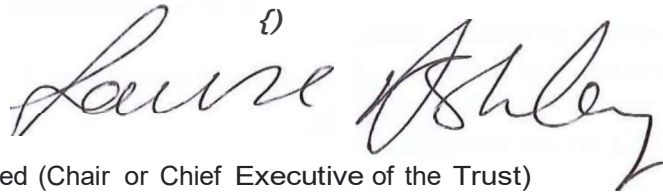
## 6. Meetings and reports

- 6.1. 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.

6.2. 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 formal action. This could include giving directions to the Trust under section 8 of the National Health service Act 2006 and paragraph 6 of the TDA Directions.

THE TRUST

A handwritten signature in black ink that reads "Louise Ashley". The signature is written in a cursive style with a small 'd' above the 'i' in "Louise".

Signed (Chair or Chief Executive of the Trust)

Dated: 04/12/2018.

NHS Improvement

A handwritten signature in blue ink that reads "Anne Egan". The signature is written in a cursive style with a horizontal line under the name.

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

Dated 20 December 2018