

## **REGULATORY UNDERTAKINGS**

### **NHS TRUST:**

Imperial College Healthcare NHS Trust  
The Bays  
South Wharf Road  
St Mary's Hospital  
London  
W2 1NY

### **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.

## **BACKGROUND**

NHS Improvement accepted undertakings from the Trust on 23 November 2017 having reasonable grounds to suspect the Trust was providing health care services for the purposes of the NHS while failing to comply with conditions of the Licence as set out in the undertakings.

A compliance certificate has been issued for paragraph 2.4 of the undertakings. The remaining undertakings are deemed to be no longer effective as a means of securing compliance with the conditions of the Licence due to the passage of time and intervening events.

NHS Improvement is therefore now accepting further undertakings, which replace and supersede those accepted on 23 November 2017. The undertakings accepted on 23 November 2017 cease to have effect from the date of these undertakings.

## **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), (c) and (d).

2.2. In particular:

#### Finances

2.2.1. The Trust went into deficit in 2015/16 and was unable to agree its control total at the beginning of the 2016/17 and 2017/18 financial years. After intensive support as part of the Financial Improvement Programme, a revised control total of a deficit of £16.8m including STF was accepted and delivered in 2016/17 and £4.5m including STF in 2017/18. The Trust has accepted its control total in 2018/19 but remains in underlying deficit.

2.2.2. The Trust has started to develop a financial recovery plan to return to surplus.

#### Operational performance

2.2.3. The Trust has failed to meet the A&E waiting time target since June 2015.

2.2.4. The Trust is not delivering the RTT incomplete performance target.

2.3. 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 equivalent Licence conditions do not continue or recur.

## **UNDERTAKINGS**

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

### **1. Finances**

- 1.1. The Trust will take all reasonable steps to return to underlying surplus by the start of 2021/22 with year on year improvements in the underlying position, including the actions set out in paragraphs 1.2 to 1.5 below.
- 1.2. The Trust will by the end of November 2018, or such date as specified by NHS Improvement, develop and submit a financial recovery plan (the "Financial Recovery Plan"), approved by the Trust's Board, to return to surplus by the start of 2021/22.
- 1.3. The Trust will take all reasonable steps to deliver the Financial Recovery Plan, including ensuring it has adequate capacity and capability in place.
- 1.4. The Trust will keep the Financial Recovery Plan under review and agree necessary amendments with NHS Improvement.

### **2. Emergency care**

- 2.1. The Trust will take all reasonable steps in order to achieve sustainable compliance with the four hour A&E target, including the actions set out in paragraph 3.2 to 3.5 below.
- 2.2. The Trust will take all reasonable steps to maintain its A&E target at or above 90% throughout Winter 2018/19.
- 2.3. The Trust will take all reasonable steps to achieve and maintain a performance of 95% by the end of March 2019, or such other date as specified by NHS Improvement.

### **3. Referral to Treatment standard**

- 3.1. The Trust will take all reasonable steps to ensure there are no patients waiting more than 52 weeks on RTT pathways.
- 3.2. The Trust will ensure that it delivers the RTT incomplete performance target in line with the trajectory agreed in the 2018/19 plan through delivery of the agreed action plan.

#### 4. Data Quality

- 4.1. The Trust will amend the RTT action plan by 31 October 2018 to ensure that it addresses the concerns set out in the independent review of clinical and administrative processes within elective pathways and clinical oversight of avoidable harm.
- 4.2. The Trust will implement the amended RTT action plan by a date 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 Trust 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.

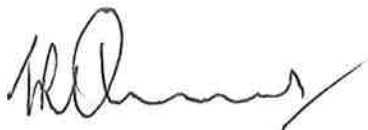
#### 6. Meetings and reports

- 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 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



Professor Tim Orchard – Chief Executive Officer

Dated: 17 October 2018

**NHS IMPROVEMENT**



Steve Russell - London Regional Managing Director

Dated: xxxx 2018 22 October 2018

