

Proposed Enforcement Undertakings

NHS TRUST:

Lewisham and Greenwich NHS Trust ("the Trust")
Lewisham High Street
London
SE13 6LH

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 (the NHS 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(4); FT4(5)(a) to (g); FT4(6) and FT4(7).

2.2. In particular:

- 2.2.1 The Trust has recorded a financial deficit since 2014/15 and has been in receipt of distressed cash support from the Department of Health since that time.
- 2.2.2 The Trust recorded a deficit of £57.6 million for 2017/18 against a control total deficit for 2017/18 of £22.8 million. The position included delivery of £18.9m of Cost Improvement Plans (CIPs), of which 37% was delivered non-recurrently.
- 2.2.3 The Trust exceeded its 2016/17 ceiling on agency spend of £19.2 million by £8.6 million. In 2017/18 the Trust agency spend was £23.1 million which was £3.9 million higher than the ceiling of £19.2 million.
- 2.2.4 The Trust has failed to meet the 95% Accident and Emergency (A&E) 4 hour maximum waiting time standard each month, except one, between April 2014 and January 2018.
- 2.2.5 The Trust has failed to meet the 92% Referral To Treatment (RTT) standard since November 2016.
- 2.2.6 The Trust has failed to meet the 62 day cancer performance standard in 2017/18 with particular challenges with inter-trust transfers (ITT): in the six months to February 2018, the Trust has referred on average 68% of its ITTs to Guys' & St Thomas' NHS Foundation Trust later than 38 days since first referral.
- 2.2.7 The Trust was inspected by the Chief Inspector of Hospitals in March 2017 which resulted in the Trust being given an overall rating by the Care Quality Commission (CQC) of 'Requires Improvement' (RI) in its draft and final reports with key areas highlighted for improvement including: infection prevention and control practices; insufficient numbers of medical and nursing staff; lack of strong clinical leadership and governance; and medicine management issues. This follows a rating of RI by the CQC in its comprehensive inspection in 2014, and RI in a focused inspection in 2016. The Trust also received regulation notices in 2017.
- 2.2.8 Following the CQC inspection, a risk summit was held and a number of actions were developed for the Trust to undertake; these are set out in the Trust's Quality Improvement Plan (QIP) which has been submitted to NHS Improvement.
- 2.2.9 The 2017 staff survey highlighted a number of areas where staff experience has deteriorated, of which five have been identified within the survey as a starting point for local actions. This includes, but is not limited to: communication between senior management and staff; career progression; and staff recommending the Trust as place to work or receive treatment.

2.2.10 The Trust has been unable to demonstrate that it has a Trust-wide workforce plan. The Trust also faces a number of other workforce challenges: a lack of clear records for recording budgeted workforce, high vacancy rates (including recruitment and retention challenges).

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 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

- 1.1. The Trust will take all reasonable steps to deliver its services on a financially sustainable basis, including but not limited to, the actions at paragraphs 1.2 to 1.13 below.
- 1.2. The Trust will develop a 2018/19 financial plan in accordance with timelines set out in 2018/19 planning guidance issued by NHS Improvement and NHS England and in line with undertakings 1.3 to 1.13 below.
- 1.3. The 2018/19 financial plan will contain a clear set of recovery actions to drive financial turnaround to enable the Trust to meet its 2018/19 agency ceiling, and reduce the Trust's underlying run rate on a quarterly basis throughout 2018/19, with a 2018/19 exit run rate to be agreed with NHS Improvement.
- 1.4. The 2018/19 financial plan will be supported by:
 - 1.4.1. A robust activity plan that has been agreed with commissioners;
 - 1.4.2. A realistic but stretching CIP programme that is aligned to the Model Hospital and other productivity opportunities
 - 1.4.3. A workforce plan that makes a clear link between activity, finance and budgeted workforce.
- 1.5. The Trust will develop 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 will submit the Diagnostic to NHS Improvement for approval by a date to be specified by NHS Improvement.
- 1.6. The Trust will use the Diagnostic to:

- 1.6.1. refresh the recovery actions in the 2018/19 financial plan, as referred to in 1.3 above; and
- 1.6.2. inform and develop, with agreement from its Board, a detailed long term financial recovery plan (FRP) which will, in particular, ensure return to an underlying financial balance in a timeframe to be specified by NHS Improvement.

1.7. The Trust will agree the scope and detailed content of the FRP with NHS Improvement and will submit the FRP to NHS Improvement by a date to be specified by NHS Improvement.

1.8. The Trust will consult its commissioners on the FRP and ensure that they have regard to the views of commissioners.

1.9. The Trust will demonstrate it is able to deliver the FRP, including demonstrating it has sufficient senior management capacity and clinical leadership engagement to enable delivery.

1.10. The Trust will develop and agree with NHS Improvement a set of Key Performance Indicators to assess the impact and performance of the FRP.

1.11. The Trust will deliver all actions in the FRP in accordance with timescales agreed by NHS Improvement and with due regard to the Trust's obligations on quality and operational performance.

1.12. The Trust will keep the FRP and its delivery under review. Where matters are identified which materially affect the Trust's ability to deliver the FRP and to meet the requirements of paragraph 1.1, whether identified by the Trust or another party, the Trust will notify NHS Improvement as soon as practicable and update and re-submit the FRP within a timeframe to be specified by NHS Improvement.

1.13. The Trust will co-operate and work with any Financial Improvement Director or Recovery Director that be appointed by NHS Improvement.

2. Constitutional standards

2.1. The Trust will take all reasonable steps in order to achieve the key constitutional standards: A & E, cancer (including delivery of ITTs), and RTT performance in 2018/19 (the Standards).

2.2. The Trust will review the underlying causes of the Trust's under-performance against these Standards and will produce a Board approved improvement plan (the Improvement Plan) covering both the University Hospital Lewisham and Queen Elizabeth Hospital sites. The Improvement Plan will be submitted to NHS Improvement by a date to be specified by NHS Improvement.

2.3. The Improvement Plan will take into account the diagnostic information from 2.2. above and will enable the Trust to meet trajectories to be agreed with NHS

Improvement to return the Trust to a level of sustainable improvement against the Standards by a timeframe to be specified by NHS Improvement.

- 2.4. The Trust will engage with system partners in developing its Improvement Plan and will co-operate and work with any external support that NHS Improvement deems necessary.
- 2.5. The Trust will ensure and demonstrate, if required by NHS Improvement, that it has sufficient senior management capacity and clinical leadership to enable delivery of the Improvement Plan.
- 2.6. The Trust will submit to NHS Improvement a monthly Board-approved progress report against delivery of the Improvement plan until such date as specified by NHS Improvement.

3. Quality

- 3.1. The Trust will utilise its QIP to rectify any concerns which are identified in the final report of the CQC following its inspection in March 2017 (the final report), including carrying out any 'must do' actions set out in the final report such that, upon any re-inspection by the CQC in 2018/19 the Trust can:
 - 3.1.1. evidence that it has addressed all 'must do' actions to the CQC's satisfaction;
 - 3.1.2. demonstrate improvement against a number of 'Required Improvement' domains (in the final report) to 'Good' (or better); and
 - 3.1.3. evidence the Trust is on a clear trajectory (such trajectory to be agreed with NHS Improvement) to achieve an overall rating of 'Good' by the CQC.
- 3.2. The Trust will also seek external support to review its QIP by no later than quarter two of 2018/19. If required, the Trust will develop further actions to address the findings of the review such that it will achieve those requirements set out in 3.1 above.
- 3.3. The Trust will ensure and demonstrate, if required by NHS Improvement, that it has sufficient senior management capacity and clinical leadership (consistent with the standards and requirements of the well led framework as identified by the CQC) to enable delivery of the QIP.
- 3.4. Where matters are identified which materially affect the ability of the Trust to deliver the QIP, the Trust will notify NHS Improvement as soon as practicable and update and re-submit the QIP within a timeframe to be specified by NHS Improvement.

4. Workforce

- 4.1. The Trust will develop a robust and credible workforce plan for 2018/19 (the Workforce Plan). The Trust will submit the Workforce Plan to NHS Improvement for approval by a date to be specified by NHS Improvement.
- 4.2. The Trust will ensure and demonstrate, if required by NHS Improvement, that it has sufficient senior management capacity and clinical leadership to enable delivery of the Workforce Plan.
- 4.3. The Trust will submit to NHS Improvement a Board-approved progress report against delivery of the Workforce Plan on a quarterly basis until such date as specified by NHS Improvement.
- 4.4. The Trust will develop an understanding of the causes of the negative staff survey responses (from its 2017 staff survey) and will develop a clear and robust action plan (the Staff Survey Improvement Plan) to address the issues identified.
- 4.5. The Trust will undertake regular staff pulse checks and / or focus groups to monitor progress against the Staff Survey Improvement Plan.
- 4.6. The Trust will submit to NHS Improvement a Board-approved progress report against delivery of the Staff Survey Improvement Plan on a quarterly basis until such date as specified by NHS Improvement.
- 4.7. The Trust will co-operate and work with any external support that NHS Improvement deems necessary.

5. Funding conditions and spending approvals

- 5.1. 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 NHS Act 2006, the Trust will comply with any terms and conditions which attach to the financing.
- 5.2. Where the Trust receives payments from the STF, the Trust will comply with any terms or conditions which attach to the payments.
- 5.3. The Trust will comply with any spending approvals processes that are deemed necessary by NHS Improvement including its annual expenditure ceiling for agency for 2018/19 and consultancy expenditure (which is capital in nature) for work over the value of £50,000 excluding VAT.

6. Development and delivery of plans

- 6.1. The Trust will ensure that the 2018/19 financial plan, FRP, Improvement Plans, Workforce Plan, Staff Survey Improvement Plan and QIP (together, the 'Plans') are developed and delivered in a robust and coherent manner.
- 6.2. The Trust will, in particular, ensure that the Plans:
 - 6.2.1. form a single, coherent and comprehensive approach to addressing the challenges facing the Trust, together with the Trust's other key plans;

- 6.2.2. ensure that the views of key stakeholders have been included in Plans;
 - 6.2.3. demonstrate how the Workforce Plan underpins relevant aspects of other plans, particularly the QIP and the FRP;
 - 6.2.4. include the actions with appropriate timescales, resourcing and clear accountabilities to clinical and non-clinical action owners;
 - 6.2.5. describe the key risks to meeting the Plans and mitigating actions being taken;
 - 6.2.6. describe how the Trust will assess progress, including the measures to be used; and
 - 6.2.7. are submitted in timescales to be agreed by NHS Improvement (unless otherwise explicitly stated), for discussion and agreement with NHS Improvement.
- 6.3. The Trust will keep the Plans and their delivery under review and provide quarterly assurance to its Board regarding progress towards meeting the Plans, such assurance to be provided to NHS Improvement concurrently.
 - 6.4. Where matters are identified which materially affect the Trust's ability to meet the Plans, 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.

7. Programme management

- 7.1. The Trust will implement sufficient programme management and governance arrangements to enable delivery of these undertakings. They must enable the Board to:
 - 7.1.1. obtain clear oversight over the process in delivering these undertakings;
 - 7.1.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
 - 7.1.3. hold individuals to account for the delivery of the undertakings.

8. Meetings and reports

- 8.1. 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.
- 8.2. 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 NHS Act 2006 and paragraph 6 of the TDA Directions.

THE TRUST

Signed



(Chair or Chief Executive of Trust)

Dated

13/7/18

NHS IMPROVEMENT

Signed



Dated

26/7/18.