

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Norfolk and Suffolk NHS Foundation Trust ("the Licensee")
Trust Headquarters
Hellesdon Hospital
Drayton High Road
Norwich
Norfolk
NR6 5BE

BACKGROUND: PREVIOUS AND CURRENT REGULATORY ACTION

Monitor accepted undertakings under section 106 of the Health and Social Care Act 2012 ("the Act") from the Licensee on 19 February 2015 (varied on 20 December 2016) having reasonable grounds to suspect the Licensee was providing health care services for the purposes of the NHS in breach of the conditions of its licence as set out in the undertakings (the "2015 Undertakings").

The 2015 Undertakings are deemed to be no longer appropriate.

In place of the 2015 Undertakings, NHS Improvement is now taking regulatory action in the form of these current undertakings for the reasons set out below. These undertakings replace and supersede the 2015 Undertakings (as varied) which cease to have effect from the date of these undertakings.

Any reference to "NHS Improvement" in this document is to be taken as a reference to Monitor under the Act.

DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS Improvement has decided to accept from the Licensee the enforcement undertakings specified below pursuant to its powers under section 106 of the Act.

GROUND

1. Licence

The Licensee is the holder of a licence granted under section 87 of the Act.

BREACHES

2. Quality and Governance Breaches

- 2.1. NHS Improvement has reasonable grounds to suspect that the Licensee has provided and is providing healthcare services for the purposes of the NHS in breach of the following conditions of its licence: FT4(2), FT4(4)(a)-(c), FT4(5)(b), FT4(5)(c), FT4(5)(e), FT4(5)(f) and FT4(6)(a)-(f).

2.2. In particular:

2.2.1. Following inspections of the Licensee by the Care Quality Commission ("CQC") in July 2017, the CQC found the Licensee to be "inadequate" overall. CQC highlighted the following specific areas in which the service provided by the Licensee was 'Inadequate': are the services safe; are the services well led.

These findings are set out in the CQC's report dated 13 October 2017 (the "CQC Report").

2.2.2. The Licensee has been issued with a Section 29A warning notice where the CQC found failing with systems and processes that did not operate effectively to ensure that the risks to patients were assessed, monitored, mitigated and the quality of healthcare improved in relation to: systems to monitor and learn for quality and performance information; ligature point management and environmental risks; seclusion environments and seclusion practice; accommodation for men and women; staffing levels; management oversight and governance to ensure staff had regular supervision, appraisal and training; access to services; risk assessment and care planning; access to alarms and emergency equipment.

The breaches by the Licensee detailed in 2.2.1. and 2.2.2. above demonstrate a failure of governance arrangements in particular, but not limited to, a failure by the Licensee to ensure appropriate systems and standards of governance, adequate oversight by the Board and establishment and implementation of associated governance systems and processes including those relating to quality and to ensure appropriate and sufficient capacity.

2.3. Need for action

NHS Improvement believes that the action, which the Licensee has undertaken to take pursuant to these undertakings, is action to secure that the breaches in question do not continue or recur.

3. Appropriateness of Undertaking

In considering the appropriateness of accepting in this case the undertakings set out below, NHS Improvement has taken into account the matters set out in its Enforcement Guidance.

UNDERTAKINGS

NHS Improvement has agreed to accept and the Licensee has agreed to give the following undertakings, pursuant to section 106 of the Act:

1. Quality Improvement Plan

- 1.1. The Licensee will take all reasonable steps to address the concerns identified in, but not limited to, the CQC Report, including carrying out the actions set out in the CQC Report in accordance with timescales as determined by the CQC such that, upon re-inspection by the CQC within 12 months of the date of the CQC Report (or such other date as CQC may determine), the Licensee will no longer be found to be 'inadequate' in any of the CQC domains.
- 1.2. The Licensee will take all reasonable steps to finalise its Quality Improvement Plan ("QIP") within timescales to be specified by NHS Improvement and in any event will submit the QIP to NHS Improvement by 31 November 2017.
- 1.3. The Licensee will consult with relevant stakeholders during the finalisation of the QIP, including NHS Improvement, CQC and NHS England and will reflect their views appropriately in the QIP. Consultation will take place via the single system oversight group, led by NHS Improvement, established to provide system support to the Trust in the development of its QIP. The Licensee will modify the QIP if instructed by NHS Improvement.
- 1.4. The Licensee will demonstrate that it is able to deliver the QIP including demonstrating that it has sufficient capacity at both executive and other levels of management to enable delivery of the QIP.
- 1.5. The Licensee will keep the QIP described above and its delivery under review. Where matters are identified which materially affect the Licensee's ability to deliver the QIP, whether identified by the Licensee or another party, the Licensee will notify NHS Improvement as soon as practicable and update and resubmit the QIP within a timeframe to be agreed by NHS Improvement.
- 1.6. The Licensee will ensure that the delivery of the QIP and other measures to improve quality and operational performance do not compromise its overall financial position. The Trust will keep the financial cost of its quality improvements under close review and will notify NHS Improvement as soon as practicable of any matters which are identified as potentially having a material impact on the Licensee's overall financial position.
- 1.7. The Licensee must arrange clinical visits at the Licensee to assess progress against the implementation of the QIP on a six monthly basis with the scope and the review team to be agreed by NHS Improvement.

2. Operational Productivity

- 2.1 The Licensee will use operational productivity tools and guidance to deliver its financial plan e.g. model hospital

3. Improvement Director

- 3.1. The Licensee will co-operate and work with any Improvement Director(s) who will be appointed by NHS Improvement to oversee and provide independent assurance to NHS Improvement on the Licensee's delivery of the QIP and the quality of care the Licensee provides.

4. Buddy Trust and other partner organisations

- 4.1. The Licensee will co-operate and work with any partner organisations (this may include one or more 'Buddy Trusts') who may be appointed by NHS Improvement to:
 - 4.1.1. support and provide expertise to the Licensee; and
 - 4.1.2. assist the Licensee with the delivery of the QIP and the improvement of the quality of care the Licensee provides.
- 4.2. The Licensee will work with any such partner organisation on such terms as may be specified by NHS Improvement.

5. Governance and capability review

- 5.1. The Licensee will take all reasonable steps to address the governance concerns identified in the CQC Report and elsewhere.
- 5.2. The Licensee will undertake a review to identify the causes of the Licensee's governance issues. The scope and timing of the review will be agreed with NHS Improvement.
- 5.3. Following the review the Licensee will finalise and submit a plan to NHS Improvement, including key milestones, setting out the steps which it will take to comply with 5.1 (the 'Governance Action Plan').
- 5.4. The Licensee will deliver the Governance Action Plan by a date to be agreed with NHS Improvement and will meet the key milestones.

6. Programme Management

- 6.1. The Licensee will implement programme management and governance arrangements to facilitate the delivery of these undertakings. Such arrangements must enable the Board to:
 - 6.1.1. obtain a clear oversight of the progress in delivering these undertakings;
 - 6.1.2. obtain an understanding of any risks to the successful achievement of the undertakings and ensure appropriate mitigation; and

6.1.3. hold individuals to account for delivery of the undertakings.

6.2. The Licensee will provide to NHS Improvement direct access to its advisors, programme leads and the Licensee's board members as needed in relation to the matters covered by these undertakings.

7. Meetings and reports

7.1. The Licensee 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.

7.2. The Licensee will provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

The undertakings set out above are without prejudice to the requirement on the Licensee to ensure that it is compliant with all the conditions of its licence, including any additional licence condition imposed under section 111 of the act and those conditions relating to:

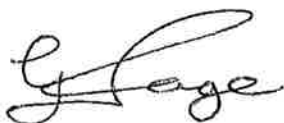
- Compliance with the health care standards binding on the licensee; and
- Compliance with all requirements concerning quality of care.

Any failure to comply with the above undertakings will render the Licensee liable to further formal action by NHS Improvement. This could include the imposition of discretionary requirements under section 105 of the act in respect of the breach in respect of which the undertakings were given and/or revocation of the licence pursuant to section 89 of the act.

Where NHS Improvement is satisfied that the Licensee has given inaccurate, misleading or incomplete information in relation to the undertakings: (i) NHS improvement may treat the Licensee as having failed to comply with the undertakings; and (ii) if NHS Improvement decides so to treat the licensee, NHS Improvement must by notice revoke any compliance certificate given to the Licensee in respect of compliance with the relevant undertakings.

LICENSEE

Signed Gary Page (Chair of Licensee)

A handwritten signature in black ink, appearing to read 'G. Page', written in a cursive style.

Dated: 23/01/18

NHS IMPROVEMENT

Signed (Chair of relevant decision-making committee)

A handwritten signature in black ink, consisting of a stylized initial 'P' followed by a horizontal line that tapers to the right.

Dated: 23/01/2018