

Annex 1: Enforcement Undertakings for trust's signature and return

UNDERTAKINGS

NHS TRUST:

North Middlesex University Hospital NHS Trust
Sterling Way
London
N18.1QX

PROPOSAL:

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.

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: CoS3(1)(b), FT4(2), FT4(5)(a),(c),(d),(f),(g), and FT4(7)

2.2. In particular:

2.2.1 The Trust has failed to meet the Accident & Emergency standard (“A&E standard”) throughout 2016/17 and 2017/18 and has performed below

trajectory during 2017/18. The Trust has been unable to demonstrate that it has a plan in place to meet the A&E standard on a sustainable basis;

- 2.2.2 The Trust has failed to meet the 62-day standard for cancer treatments (“the cancer standard”) on a quarterly basis since Q1 2017/18;
 - 2.2.3 Following a CQC inspection in 2016 which resulted in a rating of “Requires Improvement”, the Trust has not evidenced that it has fully addressed the recommendations in the CQC report;
 - 2.2.4 The findings of the Clinical Governance Review of 20 December 2017 identified a number of concerns. In particular, a lack of forum to ensure corporate oversight of risk, and weakness in risk management at divisional level including in maternity and the emergency department. It was noted there is a disconnect between the Trust’s policy on serious incident investigation and practice, and there are inefficiencies in the current model of operation.
 - 2.2.5 The Trust delivered a deficit of £10.5 million in 2016/17, a £24.6m variance to plan, and a deficit of £29 million in 2017/18, a £6.6m variance to plan. The Trust is planning a deficit of £19 million in 2018/19, including £9.5m provider sustainability funding.
- 2.3 These failings by the Trust demonstrate a failure of governance arrangements including, in particular, failure to establish and effectively implement systems or processes
- (a) to ensure compliance with the Trust’s duty to operate efficiently, economically and effectively;
 - (b) to ensure compliance with healthcare standards binding on the Trust.

2.4 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.

PROPOSED UNDERTAKINGS

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

1. Accident and Emergency services

- 1.1. The Trust will produce and submit to NHS Improvement, by a date to be agreed with NHS Improvement, an updated Board-approved Emergency Care Action Plan (“the A&E plan”) to achieve compliance with the A&E recovery trajectory to be agreed with NHS Improvement.
- 1.2. The Trust will keep the A&E plan under review and submit it to NHS Improvement on request. The Trust will make any changes to the plans as requested by NHS Improvement.

- 1.3. The Trust will continue to work with external bodies including, but not limited to NHS Improvement, NHS England, commissioners and the Care Quality Commission to provide assistance in making recommendations for improvement and incorporating these into the A&E plan where appropriate.
- 1.4. The A&E plan will include, in particular:
 - 1.4.1. A narrative of the current drivers of performance below the A&E standard;
 - 1.4.2. An assessment of what previous interventions to improve performance have not worked and why, and what interventions are currently working;
 - 1.4.3. The Trust's planned actions, in conjunction with system partners, to improve A&E performance at the Trust. The actions should include key performance indicators against each action, and expected impact on overall A&E performance; and
 - 1.4.4. The Trust's trajectory to delivery of the A&E standard.
- 1.5. The Trust will implement all the actions in the A&E plan within its control within the timescales set out in the A&E plan, unless otherwise agreed by NHS Improvement.
- 1.6. The Trust will develop and agree within NHS Improvement a set of metrics that will enable the Trust to assess the delivery and impact of the A&E plan.
- 1.7. The Trust will take all other reasonable steps to deliver compliance with the 95% A&E standard on a sustainable basis.
- 1.8. The Trust will provide to NHS Improvement a monthly Board-approved report on progress against the A&E plan, which includes the following:
 - 1.8.1. Progress being made against key milestones;
 - 1.8.2. An assessment of whether there are any areas of slippage against milestones and, if so, how performance will be recovered and monitored; and
 - 1.8.3. Any key risks to delivery of the plan and the related mitigations
- 1.9. The Trust will demonstrate to NHS Improvement, in a form to be agreed with NHS Improvement, that it is able to deliver the A&E plan, including that it has sufficient capacity at both executive and other levels of management (including programme management resource), to enable delivery of the A&E plan.

2. Cancer services

- 2.1. The Trust will produce and submit to NHS Improvement, by a date to be agreed with NHS Improvement, a Board-approved plan ("the cancer plan") to achieve compliance with the 62-day cancer standard on a sustainable basis.
- 2.2. The Trust will keep the cancer plan under review and submit it to NHS Improvement on request. The Trust will make any changes to the plans as requested by NHS Improvement.
- 2.3. The Trust will continue to work with external bodies including, but not limited to NHS Improvement, NHS England, commissioners and the Care Quality Commission, to provide assistance in making recommendations for improvement and incorporating these into the cancer plan where appropriate.
- 2.4. The cancer plan will include, in particular:
 - 2.4.1. A narrative of the current drivers of performance below the cancer standard;
 - 2.4.2. An assessment of what previous interventions to improve performance have not worked and why and what interventions are currently working;
 - 2.4.3. The Trust's planned actions, in conjunction with system partners, to improve cancer performance at the Trust. The actions should include key performance indicators against each action, and expected impact on overall cancer performance; and
 - 2.4.4. The Trust's trajectory to delivery of the cancer standard.
- 2.5. The Trust will implement all the actions in the cancer plan within its control within the timescales set out in the cancer plan, unless otherwise agreed by NHS Improvement.
- 2.6. The Trust will develop and agree with NHS Improvement a set of metrics that will enable the Trust to assess the delivery and impact of the cancer plan.
- 2.7. The Trust will take all other reasonable steps to deliver compliance with the 62-day cancer standard on a sustainable basis.
- 2.8. The Trust will provide to NHS Improvement a monthly Board-approved report on progress against the A&E plan, which includes the following:
 - 2.8.1. Progress being made against the key milestones;
 - 2.8.2. An assessment of whether there are any areas of slippage against milestones and, if so, how performance will be recovered and monitored; and

2.8.3. Any key risks to delivery of the plan and the related mitigations.

2.9. The Trust will demonstrate to NHS Improvement, in a form to be agreed with NHS Improvement, that it is able to deliver the cancer plan, including demonstrating that it has sufficient capacity at both executive and other levels of management (including programme management resource), to enable delivery of the cancer plan.

3. Quality

3.1. The Trust will, by a date to be agreed with NHS Improvement, produce for NHS Improvement's approval, a Board-approved quality improvement plan ("QIP") to address any outstanding issues from the CQC report published in December 2016. The QIP should include input from the Improvement Director appointed by NHS Improvement.

3.2. The Trust will amend the QIP to address any new concerns arising from the CQC inspection in 2018 and well led review – in particular, any must do and should do actions arising from either.

3.3. The QIP must also address the recommendations set out in the Clinical Governance Review.

3.4. The Trust will take all reasonable steps to deliver its QIP within timelines to be agreed with NHS Improvement.

3.5. The Trust will consult with relevant stakeholders in producing the QIP, including NHS Improvement, CQC and NHS England, and will reflect their views appropriately in the QIP.

3.6. The Trust will provide to NHS Improvement a monthly Board-approved report on progress against the QIP, which includes the following:

3.6.1. Progress being made against the key milestones;

3.6.2. An assessment of whether there are any areas of slippage against milestones and, if so, how performance will be recovered and monitored; and,

3.6.3. Any key risks to delivery of the QIP, and the related mitigations.

3.7. The Trust will design and deliver a Governance Review and Improvement Programme (GRIP) within a timeframe and scope agreed by NHS Improvement.

3.8. The Trust will commission a further external clinical governance review within a timeframe and scope agreed by NHS Improvement.

3.9. Where matters are identified which materially affect the Trust's ability to deliver the QIP and the improvement plan, whether identified by the Trust or another party, the

Trust will notify NHS Improvement as soon as practicable and update and resubmit the QIP and/or the improvement plan within a timeframe to be agreed by NHS Improvement.

4. Finance

- 4.1. The Trust will take all reasonable steps to deliver its services on a financially sustainable basis.
- 4.2. The Trust will, by a date agreed with NHS Improvement, develop and submit to NHS Improvement a comprehensive long term financial recovery plan (FRP) which will address the drivers of the deficit.
- 4.3. The scope of the FRP will be agreed with NHS Improvement but will include:
 - 4.3.1. Actions to address the key issues identified, including a high-level milestone plan for delivery of the Trust's key schemes to deliver the FRP; and
 - 4.3.2. Actions to work with the local Clinical Commissioning Groups to contribute to the financial recovery of the local health economy.
- 4.4. The FRP must be robust, quality-assured and agreed by the Trust's board prior to submission to NHS Improvement;
- 4.5. When developing the FRP, the Trust will engage effectively with key stakeholders, including commissioners, and will reflect their views appropriately in the FRP;
- 4.6. The Trust will take all reasonable steps to ensure that it is able to deliver the FRP once approved by NHS Improvement.
- 4.7. The Trust will develop and agree with NHS Improvement a set of metrics that will enable the Trust to assess the delivery and impact of the FRP.
- 4.8. The Trust will provide to NHS Improvement a monthly Board-approved report on progress against the FRP, which includes the following:
 - 4.8.1. Progress being made against key milestones;
 - 4.8.2. An assessment of whether there are any areas of slippage against milestones and, if so, how performance will be recovered and monitored; and,
 - 4.8.3. Any key risks to delivery of the FRP and the related mitigations.

5. Improvement Director

- 5.1. The Trust will co-operate and work with any Improvement Director(s) and/or PMO 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. The

scope of the role will be determined by NHS Improvement after discussion with the Trust.

6. Programme management

6.1. The Trust will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.

6.2. Such programme management and governance arrangements must enable the board to:

6.2.1. Obtain clear oversight over the process in delivering these undertakings;

6.2.2. Obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and

6.2.3. Hold individuals to account for the delivery of the undertakings.

6.3 The Trust will ensure that it has sufficient capacity and capability at Executive level and other levels of management to deliver these undertakings.

7. Meetings and reports

7.1. 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.

7.2. 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



Feroze Amroliwala
Chair, North Middlesex University Hospital NHS Trust

Dated 16th November 2018



NHS IMPROVEMENT

Signed

Steve Russell

Executive Regional Managing Director, NHS Improvement

Dated 2 November 2018