

## **UNDERTAKINGS**

### **LICENSEE:**

Salisbury NHS Foundation Trust  
Salisbury District Hospital  
Salisbury  
Wiltshire SP2 8BJ

### **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 Health and Social Care Act 2012 ("the Act"). In this document, "NHS Improvement" means Monitor.

### **GROUND:**

#### 1. Licence

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

#### 2. Financial governance breaches

2.1 NHS Improvement has reasonable grounds to suspect that the Licensee has provided and is providing health services for the purposes of the health service in England in breach of the following conditions of the Licence: FT 4(4)(b) and (c) and FT 4(5)(a)(b)(d) and (f).

2.2 In particular:

2.2.1 The Licensee did not agree to the control total in 2017/18 and is forecasting a deficit for the year. The underlying financial position has deteriorated over the last two years.

2.2.2 NHS improvement has identified weaknesses in the Licensee's financial governance arrangements and the Licensee does not have a current plan to mitigate its deteriorating financial position.

2.2.3 The Licensee lacks sufficient capacity in its financial governance functions to enable it to successfully develop a robust financial recovery plan.

2.3 These failings by the Licensee demonstrate a failure of governance arrangements including, in particular, failure to establish and effectively implement systems or processes:

- (a) to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;
- (b) for timely and effective scrutiny and oversight by the Board of the Licensee's operations;
- (c) to ensure compliance with healthcare standards binding on the Licensee.

2.4 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.

## **UNDERTAKINGS**

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

### 1. Financial sustainability

1.1. The Licensee will take all reasonable steps to return to financial sustainability.

1.2. In meeting the requirements of paragraph 1.1 the Licensee will in particular:

- 1.2.1. Develop and submit a financial recovery plan and trajectory (the 'FRP'), such plan to be agreed by the Licensee and by NHS Improvement, and demonstrate that it can deliver that plan;
- 1.2.2. Appoint a Turnaround Director or other additional support. The appointment, terms and scope of work to be agreed with NHS Improvement.

1.3. In developing the FRP, the Licensee will, in particular, ensure that the FRP:

- 1.3.1. Includes actions required to return the Licensee to financial sustainability, with appropriate timescales, resourcing and clear accountabilities to clinical and non-clinical action owners;

- 1.3.2. Describes the key risks to returning to financial sustainability and mitigating actions being taken;
- 1.3.3. Describes how the Licensee will assess progress, including the measures to be used;
- 1.3.4. Forms a single, coherent and comprehensive approach to achieving the Licensee's objectives, together with the Licensee's other key plans, including but not limited to the Sustainability and Transformation Plan; and
- 1.3.5. Is submitted by a date to be agreed with NHS Improvement.

1.4. The Licensee will keep the FRP and its delivery under review. Where matters are identified which materially affect the Licensee's ability to meet the requirements of paragraph 1.1, whether identified by the Licensee or another party, the Licensee will notify NHS Improvement as soon as practicable and update the FRP, within a timeframe to be agreed with NHS Improvement, and agree the updated plan with NHS Improvement.

## 2. Programme management

- 2.1. The Licensee will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.
- 2.2. Such programme management and governance arrangements must enable the Board to:
  - 2.2.1. obtain clear oversight over the process in delivering these undertakings;
  - 2.2.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
  - 2.2.3. hold individuals to account for the delivery of the undertakings.

## 3. Meetings and reports

- 3.1. 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.
- 3.2. The Licensee will provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

## 4. Funding conditions and spending approvals

- 4.1. Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Licensee pursuant to section 40 of the NHS Act 2006, the Licensee will comply with any terms and conditions which attach to the financing.
- 4.2. The Licensee will comply with any reporting requests made by NHS Improvement in relation to any financing to be provided to the Licensee by the Secretary of State for Health pursuant to section 40 of the NHS Act 2006.
- 4.3. Where the Licensee receives payments from the Sustainability and Transformation Fund, the Licensee will comply with any terms or conditions which attach to the payments.
- 4.4. The Licensee will comply with any spending approvals processes that are deemed necessary by NHS Improvement.

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:

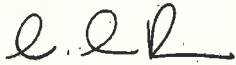
- compliance with the health care standards binding on the Licensee; and
- compliance with all requirements concerning quality of care.

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

A handwritten signature in black ink, appearing to be 'e. l. r.' with a flourish at the end.

(Chair or Chief Executive of Trust)

Dated 24<sup>th</sup> January 2018

**NHS IMPROVEMENT**

Signed

A handwritten signature in black ink, appearing to be 'Amadeo Lias'.

Dated

24 January 2018

