

ENFORCEMENT UNDERTAKINGS

NHS TRUST :

Sandwell and West Birmingham NHS Trust ("the Trust")
City Hospital
Dudley Road
Birmingham
West Midlands
B18 7QH

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.

GROUND'S:

1. The Trust

The Trust is an NHS trust all or most of whose hospitals, facilities and establishment 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 i: FT4(5)(a), (c) and (d) and FT4(6)(c) and (f).

2.2. In particular:

Quality Issues

2.2.1 An inspection of the Trust by the Care Quality Commission (CQC) in March 2017 resulted in the Trust being given an overall rating of 'requires improvement'.

- 2.2.2 The report identified concerns within the following services: urgent and emergency services (both Sandwell and City Hospitals), medical care (City Hospital) and services for children and young people (City) and community inpatient services.
- 2.2.3 Within these services, areas of concern were governance, incident reporting and documentation, safety, safeguarding, equipment and premises and staff training and leadership.
- 2.2.4 The Trust is currently undergoing a comprehensive re-inspection by CQC in Q3 2018/19. Initial CQC findings have identified concerns regarding A&E and medical services across both City Hospital and Sandwell sites. The Trust will be required by CQC to produce an action plan to address the issues that are identified.
- 2.2.5 In response to concerns raised via the NHS Improvement Midlands and East Regional team by a number of clinicians employed by University Hospitals Birmingham NHS Foundation Trust (UHB), the national Patient Safety Team conducted a review to determine whether the processes for serious incident governance at Sandwell and West Birmingham Hospitals NHS Trust (SWBH) align with current national serious incident policy. The review was conducted in December 2017 and a resultant report shared with the Trust in May 2018. The report set out a number of recommendations for the Trust and the Trust has produced an action plan to address these.

Operational Performance Issues

- 2.2.6 The Trust has breached the A&E 4 hour waiting time standard since June 2016. The Trust and SWB CCG have a joint A&E improvement plan; this plan has been amended to incorporate recommendations made following the recent onsite peer review visit.

Financial Issues

- 2.2.7 For 2017/18 the Trust was successful in delivering a surplus of £4.5m (excluding STF) which was in excess of the control total of a -£0.5m deficit (exc. STF). In nine of the last ten years the Trust has met its financial obligations. However, in 2016/7 the Trust reported a deficit (exc STF) of -£17.2m against a planned deficit of -£4.7m (the Trust's underlying deficit was -£26m). The 2018/19 plan (-£7.5m deficit excluding PSF) was developed to start to address this, with an ambitious £45m CIP programme and returning the run rate to a breakeven performance in 2019/20.
- 2.2.8 The Trust delivered a significant reduction in its agency spend from spend of £23.3m in 2016/17 to £15.8m in 2017/18. However, this was still above the agency ceiling of £11m. The Trust's plan in 2018/19 is to reduce the spend but it is clear it will not achieve the ceiling this year.

Partnership working across the system

- 2.2.9 A review of the Sandwell and West Birmingham (SWB) health economy was carried out by GE Healthcare Finnermore and the report was issued in September 2017. The overall findings from the review were that the system

would not be financially sustainable in the medium term (2-5 years). The report detailed a comprehensive programme of recommendations to address the issues and these have been agreed by both the CCG and the Trust.

Failures and need for action

2.3. These failings by the Trust demonstrate a failure of governance and financial management including, in particular:

- (a) failure to establish and effectively implement systems or processes:
 - i. to ensure compliance with the Trust's duty to operate efficiently, economically and effectively,
 - ii. ensure compliance with healthcare standards binding on the Trust;
 - iii. for effective financial decision-making, management and control; and
 - iv. to ensure the matters relating to quality of care specified in condition FT4(6)(c) and (f) are complied with.

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.

UNDERTAKINGS

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

1. Quality and Improvement

- 1.1. The Trust will take all reasonable steps to address any concerns raised by CQC arising from its most recent inspection, once the inspection is concluded, including carrying out the required actions in accordance with such timescales as determined by the CQC.
- 1.2. The Trust will ensure it has a robust quality improvement plan ("QIP") in place to address the issues raised by the CQC which is monitored by CQC.
- 1.3. The Trust will ensure the improvement plan to address the recommendations from the Serious Incident and Patient Safety review is implemented and delivered by a date to be agreed with NHS Improvement.

2. Emergency Care

- 2.1. The Trust will take all reasonable steps to recover operational performance to meet its projected performance and achieve sustainable compliance with the 4 hour A&E standard in line with the Trust trajectory delivery of 90% by September 2018 and 95% by March 2019.
- 2.2. The Trust's Joint A&E Improvement Plan will be monitored to meet the requirements in paragraph 2.1.

2.3. The Trust should review the Joint A&E Improvement Plan to ensure that it:

- 2.3.1 Includes the actions required to meet the requirements of paragraph 2.1, with appropriate timescales, key performance indicators and resourcing;
- 2.3.2 Describes the key risks to meeting the requirements of paragraph 2.1 and mitigating actions being taken;
- 2.3.3 Is based on realistic assumptions;
- 2.3.4 Reflects collaborative working with key system partners and other stakeholders;

2.4 The Trust will demonstrate it can deliver the Joint A&E Improvement Plan and meet the key milestones.

2.5 The Trust will keep the Joint A&E Improvement plan and its delivery under review and provide appropriate assurance to its Board regarding progress towards meeting the requirements of paragraph 2.1. The Trust will continue to keep the A&E Delivery Board appraised of progress against plan on a monthly basis. The Trust will keep NHS Improvement appraised of progress against plan through regular monthly updates.

2.6 Where matters are identified which materially affect the Trust's ability to meet the requirements of paragraph 2.1, whether identified by the Trust or another party, the Trust will notify NHS Improvement as soon as practicable and update and resubmit the performance plan within a timeframe to be agreed with NHS Improvement.

3. Financial Performance

Five-year Financial Recovery Plan

3.1 Within 4 months of the date of these undertakings or such other timescale as NHS Improvement may agree, the Trust will develop a detailed five-year financial recovery plan (FRP) which sets out how and when the Trust will return to financial balance (excluding STP).

3.2 The scope and detailed content of the FRP will be agreed with NHS Improvement but will include:

- 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;
- the monthly phasing of, and governance, assurance and programme management arrangements to support delivery of the CIPs (including the Trust's internal assurance approach);
- a credible trajectory to a surplus position;
- details of extra controls and other measures the Trust has put in place to immediately strengthen financial control, which may relate, for example, to staff pay costs, procurement, cash, delegated financial limits and programme management offices;
- details of how the Trust will deploy sufficient resources to ensure implementation of the financial recovery plan;
- details of the Trust governance arrangements for approval and delivery of the FRP; and
- confirmation of how the health economy will manage the unitary payment.

3.3 The FRP must be robust, quality-assured and agreed by the Trust's board.

3.4 When developing the plan, the Trust will engage effectively with key stakeholders, including commissioners, and will reflect their views appropriately in the FRP.

3.5 The Trust will take all reasonable steps to deliver the FRP once agreed by NHS Improvement.

Achievement of the Agency Ceiling

3.6 The Trust will submit the detailed delivery agency plan (AP), which the Trust are using to support the achievement of the Agency Ceiling.

3.7 The detailed content of the AP will be agreed with NHS Improvement but will include:

- actions to address the key issues identified, including a high level milestone plan for delivery of the Trust's key schemes to deliver the AP;
- the monthly phasing of, and governance, assurance and programme management arrangements to support delivery of the AP.

GE Healthcare Fynamore Recommendations

3.8 The Trust will develop and submit the steps the Trust will be taking to address the challenges to the sustainability of Sandwell and West Birmingham Healthcare System, in so far as they relate to the Trust, by a date agreed with NHS Improvement. In particular this document should clearly describe:

- what steps the Trust will be taking in relation to the bed capacity to address the variances outlined by *GE Healthcare Fynamore*;
- how the Trust plans to work with the wider system to ensure bed capacity meets its populations' requirements;
- what steps the Trust will be taking to map the future flows and develop joint plans for pathway redesign;
- how the Trust anticipates collaborating with the system, commissioners and NHS Improvement to address the recommendations;
- what actions the Trust will take to bridge the forecasted financial gap; and
- how the Trust will provide assurance that it has the capacity and capability to deliver rapid paced change as suggested in the report.

4 Programme management

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

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

- 4.2.1 obtain clear oversight over the process in delivering these undertakings;
- 4.2.2 obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
- 4.2.3 hold individuals to account for the delivery of the undertakings.

5 Access

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

6 Meetings and reports

6.1 In addition to the action in paragraph 3.1 (reporting in relation to Financial Recovery) the Trust will:

- 6.1.1 attend meetings or, if NHS Improvement stipulates, conference calls, at such times and places as may reasonably be required by NHS Improvement; and
- 6.1.2 provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

7 Other partner Stakeholders

7.1 The Trust will co-operate and work with any partner stakeholders who may be appointed by NHS Improvement to:

- support and provide expertise to the Trust; and
- assist the Trust with the delivery of the Quality Improvement Plan, Joint A&E Improvement Plan and the improvement of its finances and the quality of care the Trust provides.

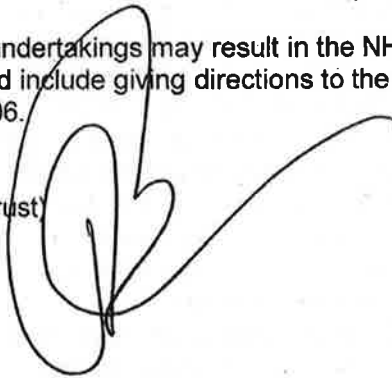
Any failure to comply with the above undertakings may result in the NHS Improvement taking further formal action. This could include giving directions to the Trust under section 8 of the National Health Service Act 2006.

THE TRUST

Signed (Chair or Chief Executive of Trust)

Dated

6/2/2019



NHS IMPROVEMENT

Signed Member of the Regional Support Group – Midlands and East)

Dated

19/2/2019

