

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Southern Health NHS Foundation Trust
Trust Headquarters, Sterne 7
Tatchbury Mount
Calmore
Southampton
SO40 2RZ

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”).

The enforcement undertakings below supersede the undertakings relating to governance that were accepted by NHS Improvement on 16 April 2014 and the undertakings accepted by NHS Improvement on 30 June 2016.

In this document, “NHS Improvement” means Monitor.

GROUND

1. Licence

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

BREACHES

2. Quality

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(5)(b) – (c) and (e) - (f); and FT4(6)(b) – (f).

2.2. In particular:

2.2.1. In January 2016, in response to the findings of the Mazars report and to check on improvement required in some of the Licensee’s services, the CQC undertook a focused inspection of the Licensee. This inspection resulted in

the issuing of a warning notice on 16 March 2016. The warning notice identified longstanding risks to patients that had not been dealt with effectively despite being brought to the Licensee's attention on multiple occasions in recent years. The CQC published its full inspections reports on 29 April 2016, which included the following findings:

- (a) The Licensee had not put in place robust governance arrangements to investigate incidents. As a result, the Licensee had missed opportunities to learn from these incidents and to take action to reduce the likelihood of similar events happening in the future. The Licensee had also failed to identify, record or respond effectively to staff who expressed concerns about their competence to carry out their roles.
- (b) The Licensee had not put in place effective arrangements to identify, record or respond to concerns about patient safety raised by patients, their carer, staff or by the CQC. The CQC found examples of this in a number of the Licensee's mental health and learning disability services.
- (c) Where the Licensee and others, including CQC had identified risks to the delivery of safe care arising from the physical environment, the Licensee had not ensured that these risks were mitigated in a timely and effective way.
- (d) Overall, the Licensee's governance arrangements did not facilitate effective, proactive, timely management of risk. Where action was taken by the Licensee to mitigate risk, this was delayed and mainly done in response to concerns raised by the CQC.

2.3. These breaches by the Licensee demonstrate a failure of corporate governance arrangements, in particular but not limited to a failure by the Licensee to establish and implement systems and/or processes:

- (a) for timely and effective scrutiny and oversight by the Board of the Licensee's operations;
- (b) to ensure compliance with health care standards binding on the Licensee;
- (c) to obtain and disseminate accurate, comprehensive, timely and up to date information for Board and Committee decision-making;
- (d) to identify and manage material risks to compliance with the conditions of its licence; and
- (e) to address matters relating to quality of care specified in FT4(6)(b) to (f).

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.

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. Governance

- 1.1. The Licensee will take all reasonable steps to put in place principles, systems and standards of governance which would reasonably be regarded as appropriate for a supplier of healthcare services to the NHS.
- 1.2. In meeting the requirements of paragraph 1.1, the Licensee will, in particular:
 - 1.2.1. Consolidate the findings of relevant existing reviews and the CQC Well-led Review to take place during 2018/19, into a comprehensive plan, to be agreed by the Trust's Board, and demonstrate that it can deliver that plan.

2. Quality of care

- 2.1. The Licensee will take all reasonable steps to continue to address the concerns identified by the CQC in the Warning Notice of 16 March 2016 and inspection report dated 29 April 2016, and to deliver standards of care quality which would reasonably be regarded as appropriate for a supplier of healthcare services to the NHS.
- 2.2. In meeting the requirements of paragraph 2.1 the Licensee will, in particular, develop a CQC Action Plan, in consultation with relevant stakeholders, and agreed by the Trust Board (the 'CQC Action Plan') and demonstrate that it can deliver that plan.

3. Engagement of stakeholders

- 3.1. The Licensee will take all reasonable steps to ensure that appropriate systems and processes are in place to engage with relevant stakeholders, in particular:
 - 3.1.1. service users and their carers; and
 - 3.1.2. staff.
- 3.2. In meeting the requirements of paragraph 3.1 the Licensee will, in particular:
 - 3.2.1. carry out a review of current systems and processes; and
 - 3.2.2. develop plans to address the findings for each group in paragraph 3.1 and demonstrate that it can deliver those plans.

4. Development and delivery of plans

- 4.1. The Licensee will ensure that plans are developed and can be delivered in a robust and coherent manner which enables the Licensee to meet the requirements of paragraphs 1.1, 2.1 and 3.1.
- 4.2. In meeting the requirements of paragraph 4.1 the Licensee will, in particular, ensure that the plans:
 - 4.2.1. Support a coherent and comprehensive approach to addressing the challenges facing the Licensee, together with the Licensee's other key plans, and aligned where appropriate with key system plans;
 - 4.2.2. Include the actions required to meet the requirements of paragraphs 1.1, 2.1 and 3.1, with appropriate timescales, resourcing and clear accountabilities to clinical and non-clinical action owners, and highlighting any significant risks;
 - 4.2.3. Describe how the Licensee will assess progress and impact, including measures to be used; and
 - 4.2.4. Where requested, are submitted by dates to be agreed by NHS Improvement, for discussion and agreement with NHS Improvement.
- 4.3. The Licensee will keep the plans and their delivery under review and provide appropriate assurance to its Board regarding progress towards meeting the requirements of paragraphs 1.1, 2.1 and 3.1, such assurance to be provided to NHS Improvement on request. Where matters are identified which materially affect the Licensee's ability to meet the requirements of paragraphs 1.1, 2.1 and 3.1, whether identified by the Licensee or another party, the Licensee 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.

5. Meetings

- 5.1. The Licensee shall attend meetings (or if NHS Improvement stipulates conference calls) with NHS Improvement during the currency of the undertakings detailed in this notice to discuss its progress in meeting these undertakings. These meetings shall take place once a month unless NHS Improvement otherwise stipulates, at a time and place to be specified by NHS Improvement and with attendees specified by NHS Improvement.

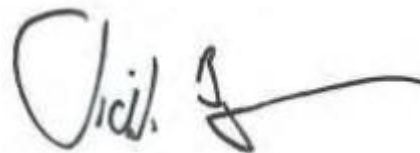
The undertakings set out above are without prejudice to the requirement on the Licensee to ensure that it is compliant with all the conditions of its licence, including any additional licence condition imposed under section 111 of the Act and those conditions relating to:

- **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 license 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 (Chair or Chief Executive of Licensee)
Dated: 12.06.2018**

NHS IMPROVEMENT



**Signed
Delivery and Improvement Director of the Regional Provider Support Group (South)
Dated: 14.06.2018**