ENFORCEMENT UNDERTAKINGS

LICENSEE:

St George's University Hospital NHS Foundation Trust ("the Licensee")
Blackshaw Road
Tooting
London
SW17 0QT

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 notice, "NHS Improvement" means Monitor.

GROUNDS:

1. Licence

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

2. Quality, Governance and RTT Breaches

2.1. NHS Improvement has reasonable grounds to suspect that the Licensee has provided and is providing health care services for the purposes of the NHS in breach of the following conditions of its licence: FT4(5)(a) to (f) and (h), FT4(6) and (7).

2.2. In particular:

2.2.1. The Care Quality Commission (CQC), inspected the Licensee's hospital at Tooting, and four community services provided by the trust from 21 to 23 June 2016, and carried out unannounced inspections on 2, 7 and 11 July 2016 and found the Licensee overall to be "inadequate" overall in its final report published on 1 November 2016. The CQC report highlighted a number of issues including the following:

(a) Unsafe and unfit premises. The CQC highlighted failings of infrastructure at the trust relating to lack of maintenance and capital investment. The state of the electrical systems, heating and water were considered to pose an unsafe environment to patients.
(b) Lack of formal mental capacity assessments. CQC noted that trust did not have effective systems, checks or regular audits in place to ensure that mental capacity assessment took place. In addition some interventions, e.g. around the use of bed rails, were not documented in patient medical records.

(c) Ineffective design and operation of governance arrangements in identifying and mitigating risks to patients. This includes specific concerns around the management of the data quality systems around RTT that have led to the trust not reporting this standard.
(d) Risks to the delivery of high quality care are not being systematically identified, analysed and mitigated.
(e) Lack of accountability of staff for management of specific risks.
(f) Lack of processes to provide assurance on the quality of care. A number of processes including delays of investigations into Serious Incidents (SI) were noted.
(g) Data used in reporting and performance management is not robust, in particular with RTT data. In addition, it was noted that the trust did not keep records of activity data and outcome measures for the community end of life care service.
(h) Lack of suitable arrangements to ensure directors are fit and proper. The trust was not able to evidence the fit and proper person documentation for a number of individuals.

2.2.2. The trust is not compliant with the 18 week referral to treatment (RTT) standard as it is currently not reporting RTT data. The decision to move to non-reporting followed significant issued identified by both the Intensive Support Team (IST) and MBI Health Group (MBI) with RTT data quality. The Care Quality Commission (CQC) draft inspection report (received 19 September 2016) also identified significant concerns with RTT data quality. The key issues identified were as follows:

(a) the implementation of electronic patient record system (Cerner) was poorly managed resulting in failure to track patients;
(b) data quality systems were not fit for purpose and impacting on reliability of data for referral to treatment (RTT), specifically the incomplete pathway;
(c) there was inconsistency in meeting the two week, 31 and 62 day cancer targets;
(d) there was no clear evidence of prioritisation of patients waiting for appointments; and
(e) evidence in the diagnostic report carried out by MBI noted that there were risks to patients at every stage of the pathway.

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

(a) ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;
(b) ensure compliance with healthcare standards binding on the Licensee;
(c) identify and manage material risks to compliance with the conditions of the Licence; and
(d) ensure the matters relating to quality of care specified in condition FT4(6).

2.2.4. Need for action:

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

3. Appropriateness of undertakings

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. The Licensee will take all reasonable steps to deliver its services on a clinically, operationally and financially sustainable basis, including but not limited to the actions in 2 to 6 below

2. Quality

2.1. The Licensee will take all reasonable steps to address the issues highlighted in the CQC section 29A Warning Notice issued 26 August 2016, by the dates as advised by the CQC.

2.2. The Licensee will take all actions necessary to rectify the concerns which are identified in the CQC report, including carrying out the "must do" actions set out in the report, such that, upon re-inspection by CQC within 12 months of the CQC report (or such other date that CQC may determine), the Licensee:

2.2.1. has addressed the "must do" actions to the CQC's satisfaction;
2.2.2. is no longer considered by CQC to be inadequate in the well led domain; and,
2.2.3. has improved against all domains rated as "inadequate" or "requires improvement" when compared to the CQC report.

2.3. Within one month from the date of these undertakings, the Licensee will finalise and submit to CQC and NHS Improvement a plan setting out the steps which it will take to ensure compliance with its the licence conditions relating to quality, and include key milestones it will need to achieve ("the Quality Improvement Plan").

3. Board and Quality Governance

3.1. The Licensee will take all reasonable steps to address the governance concerns identified in the CQC Quality Report and any other review or report, whether internal or from a third party

3.2. The Licensee will, at a date to be agreed by NHS Improvement, commission a governance review ("the governance review") consisting of:

3.2.1. a review of corporate governance, including board effectiveness, capacity and processes for appropriately escalating issues to the board; and

3.2.2. a review of quality and clinical governance including the Licensee's performance against NHS Improvement's quality governance and assurance framework.

3.3. The governance review will include consideration of the findings of the CQC report to the extent that they relate to board governance, leadership, quality or clinical governance.

3.4. The governance review will be commissioned from an external advisor, with the scope and timeframe to be agreed by NHS Improvement.

4. Estates

4.1. The Licensee will develop and either deliver or, if NHS Improvement so specifies, demonstrate to NHS Improvement that it can deliver:

4.1.1. An estates plan for the two years 2016/17 and 2017/18 ('Estates recovery plan') to be submitted to NHS Improvement by the date of the CQC Quality summit or such other date as may be agreed with NHS Improvement. This plan should clearly identify:

4.1.1.1. how it addresses 'must do' actions within the CQC inspection report;

4.1.1.2. the estimated capital and revenue impact of these plans; and

4.1.1.3. the options appraisal used to identify the preferred approach.

4.1.2. A five-year strategy and plan for estates longer term sustainability (together termed the 'Estates Strategy') to be submitted to NHS Improvement by 31 March 2017 or such other date as may be agreed with NHS Improvement.

4.1.3. In relation to both the Estates recovery plan and Estates Strategy, the Licensee will consult with its commissioners and will ensure that the plans:

4.1.3.1. reflect accurately the views of its commissioners; and

4.1.3.2. are aligned to the Sustainability and Transformation Plan (STP) for South West London.

5. RTT remediation plan

5.1. The Licensee will finalise and submit to NHS Improvement, on a timescale to be agreed with NHS Improvement, an action plan to deal with the issues of RTT data quality raised by the CQC and previous diagnostic reports (the "Action Plan"). Specifically it is expected that the plan will consolidate the findings of the previous reviews and identify plans to address these.

5.2. The Licensee will implement an effective clinical harm review process and associated governance.

5.3. The details of what is included in the Action Plan will be agreed with NHS Improvement. These will include process and actions on the following areas:

5.3.1. The trust's current position regarding addressing RTT recovery.
5.3.2. Identify a clear approach to the validation of the historic incomplete pathways, pathways with unknown status and confirming the accuracy of RTT data held within the patient administration system(s) (PAS).
5.3.3. Validation and operational management of the inpatient/day case patient tracking list (PTL).
5.3.4. Management of all new referrals to include a review of the configuration of the RTT function within PAS, to ensure accurate and complete recording of RTT status for new referrals. As well as delivering effective implementation of supporting operational processes.
5.3.5. Appropriate plans to treat any patients waiting longer than constitutional standards.
5.3.6. Review the exclusions applied to the patient tracking list (PTL) to ensure these are in line with business rules.

5.4. The Action Plan will be agreed with stakeholders and include any actions that could be taken by key system partners to support the Licensee to deliver its immediate priorities.

5.5. The Licensee will agree with NHS Improvement the governance and oversight arrangements to support the implementation of the Action Plan.

5.6. The Licensee will identify the programme resources required to support the effective implementation of the Action Plan. The "Resourcing Plan" will be agreed with NHS Improvement.

5.7. Development of a data reporting strategy that will include using PAS as a key source of data.

5.8. The Licensee will provide to NHS Improvement, should NHS Improvement so request, external assurance from a source and a scope to be agreed with NHS Improvement that it has implemented the recommendations and actions associated with the data quality review

5.9. The Licensee will commit to resuming reporting RTT at as early a date as is possible.

6. Plans

6.1. For the purpose of this section, "plans" means to the plans referred in paragraphs 2.3, 4.1 and 5.1.

6.2. The Licensee will modify the plans if needed following input from NHS Improvement after it has received and considered the plans, such input from NHS Improvement to be provided before and/or after the commissioning and receipt of the assurance specified in paragraph 5.8.

6.3. The key parameters and detailed scope of the plans will be agreed with NHS Improvement and will be updated by the Licensee as needed upon any subsequent review by NHS Improvement.

6.4. The Licensee will demonstrate that it is able to deliver the plans described above including demonstrating that it has sufficient capacity at both executive and other levels of management to enable delivery of the plans.

6.5. The Licensee will keep the plans described above and their delivery under review. Where matters are identified which materially affect the Licensee's ability to deliver those plans and meet the requirements of paragraph 1.1 above, whether identified by the Licensee or another party, the Licensee will notify NHS Improvement as soon as practicable and update and resubmit the relevant plan(s) within a timeframe to be agreed by NHS Improvement.

6.6. The Licensee will develop and agree with NHS Improvement Key Performance Indicators (KPIs) to assess the impact of the plans described above.

6.7. The Licensee will consult and agree with NHS Improvement:

6.7.1. the appointment and scope of any key advisors in relation to the plans described above; and

6.7.2. executive capacity to support the delivery of the plans described above, including key executive appointments

7. General

7.1. The Licensee will implement sufficient programme management and governance to enable delivery of these undertakings.

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

7.2.1. obtain clear oversight over the process in delivering these undertakings;

7.2.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and

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

8. Access

8.1. 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.

9. Meetings

9.1. The Licensee will attend meetings or, if NHS Improvement stipulates, conference calls, as required, to discuss its progress in meeting the undertakings set out above. These meetings shall take place once a month, unless NHS Improvement stipulates otherwise, at a time and place to be specified by NHS Improvement and with attendees specified by NHS Improvement.

10. Improvement Director

10.1. The Licensee will co-operate and work with any Improvement Director(s) who may be appointed by NHS Improvement to oversee and provide independent assurance to NHS Improvement on the Licensee's delivery of plans referred to in these undertakings and the quality of care the Licensee provides.

11. Buddy Trust and other partner organisations

11.1. The Licensee will co-operate and work with such partner organisations (this may include one or more 'Buddy Trusts') who may be appointed by NHS Improvement to support and provide expertise to the Licensee and to assist the Licensee with the delivery of one or more of the Plans identified within this document and the quality of care the Licensee provides.

11.2. The Licensee will work with other partner organisation/s on such terms as may be specific 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:

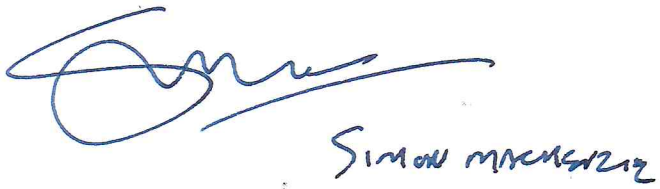
1. **COMPLIANCE WITH THE HEALTH CARE STANDARDS BINDING ON THE LICENSEE; AND**
2. **COMPLIANCE WITH ALL REQUIREMENTS CONCERNING QUALITY OF CARE.**

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 UNDERTAKING 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 AN UNDERTAKING: (i) NHS IMPROVEMENT MAY TREAT THE LICENSEE AS HAVING FAILED TO COMPLY WITH THE UNDERTAKING; 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 UNDERTAKING.

LICENSEE

Signed (~~Chair or~~ Chief Executive of Licensee)



Dated: 1 November 2016

NHS IMPROVEMENT

Signed (Chair of the Provider Regulation Committee)

Dated: 1 November 2016