

**ENFORCEMENT UNDERTAKINGS****NHS TRUST:**

The Royal Wolverhampton NHS Trust ("the Trust")  
New Cross Hospital  
Wednesfield Road  
Wolverhampton  
WV10 0QP

**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.

**GROUNDINGS:****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 FT4(5)(a), (b), (d) and (e).

2.2. In particular:

**Financial Issues**

2.2.1 For 2018/19, the Trust agreed a deficit control total of £0.205m excluding PSF (Control total including PSF was a surplus of £11.210m). At month 9, the Trust submitted a revised forecast outturn deficit of £10.605m excluding PSF (£3.185m including PSF). This is a £10.4m adverse variance to plan (excluding PSF).

2.2.2 The Trust has a 2018/19 CIP plan of £25m. At month 10 the Trust has a year to date CIP target of £18.674m and has delivered £11.484m. This is a variance of £7.190m. The Trust is forecasting year end delivery of £14.264m, this is £10.736m adverse to plan.

2.2.3 For 2019/20 the Trust has submitted a pre PSF, MRET and FRF draft plan delivering a deficit of £4.697m in line with control total (£5.003m surplus including PSF). This plan is based on CIP delivery of £24.5m (4.24%). All has been identified but £11.9m is at opportunity level only with £13.509m rated as high risk.

Failures and need for action

2.3. These failings by the Trust demonstrate a failure of governance and financial management standards, including but not limited to a failure by the trust to establish and effectively implement systems or processes:

- 2.3.1 to ensure compliance with the Trust's duty to operate efficiently, economically and effectively,
- 2.3.2 for timely and effective scrutiny and oversight by the board of the Trust's operations,
- 2.3.3 of corporate and financial management suitable for a provider of NHS services and which provide reasonable safeguards against the risk of being unable to carry on as a going concern; and
- 2.3.4 for effective financial decision-making, management and control.

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 governance failures in question do not continue or recur.

## UNDERTAKINGS

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

### 1. Finance Performance

- 1.1 The Trust will take all reasonable steps to ensure that robust financial plans are in place to deliver the 2019/20 financial plan, including planned CIPs. The Trust should ensure that 2019/20 CIP plans are fully delivered with full assessment being completed on the impact of schemes including PID and QIA assessments.
- 1.2 The Trust will provide monthly information to the NHS Improvement regional team to be reviewed and discussed at monthly performance review meetings. This will include;
  - Proportion of CIPS with approved PID and quality impact assessment
  - RAG rating of likely delivery of all identified CIPS
  - Year to date and forecast CIP positions.
- 1.3 In addition, the Trust will develop a high-level long-term deficit reduction financial improvement plan and financial strategy ("the long-term plan") covering the financial years from 2019/20 to 2023/24. This will be submitted to NHS Improvement by 30 September 2019. In so doing the Trust will ensure the long-term plan:
  - 1.3.1 eradicates the Trust's pre PSF and MRET deficit;
  - 1.3.2 is financially consistent with the annual financial plan submitted to NHS Improvement for 2019/20;
  - 1.3.3 reflects the opportunities for operational and financial efficiency identified in the Model Hospital and includes plans for returning loss making services to at least a breakeven operating position or for an agreed alternative delivery solution;
  - 1.3.4 is aligned with commissioner activity and efficiency plans;
  - 1.3.5 includes a summary of key assumptions made; and
  - 1.3.6 is quality assured and agreed by the trust's board.
- 1.4 The Trust's progress in delivering the long-term plan will be regularly reported to its Board and to NHS Improvement.

### 2. Distressed Finance and Spending Approvals

- 2.1. Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Trust under Schedule 5 to the National Health Service Act 2006, the Trust will comply with any terms and conditions which are attached to the financing.
- 2.2. Where the Trust receives payments from the Provider Sustainability Fund the Trust will comply with any terms and conditions which attach to the payments.
- 2.3. The Trust will comply with any spending approvals processes that are deemed necessary by NHS Improvement.

### 3. Programme management

- 3.1. The Trust will take all reasonable steps to deliver and implement its financial recovery plan and improvement actions in paragraph 1 above and will ensure that there is sufficient board level and divisional level capacity and capability at all times to ensure appropriate programme management and oversight of these plans as required.
- 3.2. Where required by NHS Improvement, the Trust will develop and implement or where appropriate, strengthen, Trust-wide governance and programme management processes to

manage and deliver sustained performance covered by these enforcement undertakings. Such programme management and governance arrangements must enable the board to:

- 3.2.1. obtain clear oversight over the process in delivering these undertakings;
  - 3.2.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
  - 3.2.3. hold individuals to account for the delivery of the undertakings.
- 3.3. In the event that successful delivery of the recovery plan does not result in a corresponding sustained improvement in the financial position, the Trust will consult with NHS Improvement and other stakeholders on alternative course of actions.

4. Access

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

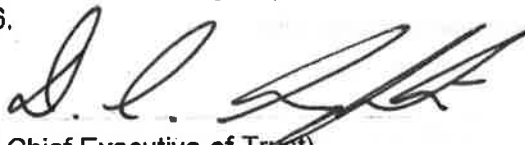
5. Meetings and reports

- 5.1. In addition to the action in paragraph 1.3 (reporting in relation to financial recovery) the Trust will:
- 5.1.1. 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; and
  - 5.1.2. 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 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 22/5/19

DAVID LOUGHTON CBE  
Chief Executive

**NHS IMPROVEMENT**

Signed (Acting Delivery and Improvement Director Midlands and East (West Midlands) and member of the Regional Support Group – Midlands and East)



Dated 23/5/19