

**NHS TRUST:**

United Lincolnshire Hospitals NHS Trust (the trust)  
Trust Headquarters,  
Lincoln County Hospital  
Main Entrance,  
Greetwell Road,  
Lincoln,  
LN2 5QY

**DECISION:**

The undertakings agreed with the trust in June 2017 regarding quality, financial governance and operational performance are deemed to be no longer effective as a means of securing compliance with the conditions of the Licence due to the passage of time and intervening events.

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 updated undertakings from the trust, below. These undertakings replace and supersede the June 2017 undertakings which cease to have effect from the date of these undertakings.

**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 United Lincolnshire Hospitals NHS Trust Directions 2016.

**GROUND:**

1. The trust

The trust is an NHS trust all or most of whose hospitals, facilities and establishments 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(4)(a)-(c), FT4(5)(a)-(e), FT4(6)(b)-(f) and FT4(7).

2.2. In particular:

#### *Quality Issues*

2.2.1. An inspection of the trust by the Chief Inspector of Hospitals during February – April 2018 resulted in the trust being given an overall rating by the CQC of 'Requires Improvement' with all domains receiving 'requires Improvement' except caring which was rated as 'good'. Following the inspection, it was agreed that the Trust would remain in special measures.

2.2.2. The overall concerns focused on the trust's Pilgrim Hospital Site. The Pilgrim site receiving an 'inadequate' rating for responsiveness and well led domains overall and 'inadequate' for Services for Children and Young People; and Urgent and Emergency Care overall. Further details are contained the CQC's report dated 3rd July 2018 ('the CQC Report').

2.2.3. The CQC inspected Pilgrim Emergency Department in November and December 2018 and identified serious concerns in the care provided in the department. The inspection reported did not provide a formal rating, but three Risk Summits were held in December 2018 and January 2019 to agree actions to address the CQC findings.

#### *Operational performance*

2.2.4. The trust breached the A&E 4 hour waiting time target for every consecutive quarter from Quarter 4 2013/14, did not deliver its recovery trajectory in 2017/18 and its position has deteriorated during 2018.

2.2.5. The trust has breached the Referral to Treatment standard (RTT) since June 2016 and did not deliver its recovery trajectory in 2017/18. There has also been an increase in 52 week-wait breaches which peaked at 30 in September 2018.

2.2.6. The trust has breached the 62 Day Cancer standard since September 2014. Performance has improved in 2018-19 but the trust does not expect to meet the performance trajectory planned for March 2019.

#### *Financial Performance*

2.2.7. For 2017/18 the trust delivered a significant negative variance against its control total plan. The control total for 2017/18 was a deficit of £63.3m, excluding STF. The trust's financial outturn position for 2017/18 was a deficit of £81.3m.

2.2.8. For 2018/19 the trust did not accept its £54.5m control total (excluding PSF) and had a financial plan to deliver a deficit of £74.7m. At M12 the trust has delivered an outturn deficit of £88.2m, which is £13.5m worse than the plan. The trust re-forecast its forecast outturn at M9 to an £89.4m deficit.

2.2.9. Agency and bank spend is significantly above plan as is total spend on pay against planned levels. The Trust planned to breach its agency target, but ended the year with agency spend of £37.1m, significantly above the plan of £25.4m and the ceiling £21.0m. The agency ceiling was held for 2018/19, but no progress has been made to reduce costs and there are concerns that current run-rate would mean agency spend would increase year on year.

2.2.10. Spend on bank staff is also above plan, as of March 2019 costs were £24.4m vs. the annual plan of £19.1m.

2.3 These failings by the trust demonstrate a failure of governance arrangements 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. for timely and effective scrutiny and oversight by the Board of the trust's operations;
  - iii. to ensure compliance with healthcare standards binding on the trust;
  - iv. to ensure that the trust's services are safe and of sufficient quality.
  - v. To identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the Conditions of its Licence;
- b) failure to establish and effectively implement or apply systems, standards and/or processes:
  - i. 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
  - ii. 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 failures to comply with the relevant requirements of the conditions of the Licence do not continue or recur.

## 2.5 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 trust has agreed to give the following undertakings.

### 1. Quality and Safety Improvement Plan (QSIP) Milestone Plan

- 1.1. The Trust will take all reasonable steps to address the concerns identified in, but not limited to, the CQC Report, including carrying out the actions set out in the CQC Report in accordance with timescales as determined by the CQC such that, upon re-inspection by the CQC within 12 months of the date of the CQC Report (or such other date as CQC may determine), the trust will no longer be found to be 'inadequate' in any of the CQC domains for Pilgrim Hospital.
- 1.2. The trust will demonstrate that it is delivering the agreed QSIP milestone plan including demonstrating that it has sufficient capacity at both executive and other levels of management to enable delivery. This plan will be reviewed and revised on an ongoing basis to reflect any subsequent concerns raised either by the CQC, NHS Improvement or other external stakeholders. Regular updates on progress will be provided to the System Improvement Board.
- 1.3. The trust will keep the QSIP milestone plan described above and its delivery under review. Where matters are identified which materially affect the trust's ability to deliver the QSIP milestone plan, whether identified by the trust or another party, the trust will notify NHS Improvement as soon as is

practicable, and update and resubmit the QSIP milestone plan within a timeframe to be agreed by NHS Improvement.

- 1.4. The trust will ensure that the delivery of the QSIP milestone plan and other measures to improve quality and operational performance do not compromise its overall financial position. The trust will keep the financial cost of its quality improvements under close review and will notify NHS Improvement as soon as practicable of any matters which are identified as potentially having a material impact on the trust's overall financial position.
- 1.5. The trust will continue to deliver and embed the Pilgrim Emergency Department Action Plan and associated improvement actions, and these must be linked to clear outcome measures. The trust will ensure that its Board receives monthly progress updates pertaining to Pilgrim Hospital Emergency Department and associated improvement actions and outcome measures. The trust will be expected to continue to work closely with NHS Improvement, to provide assurance on progress and to ensure potential support needs are identified.
- 1.6. The trust will be required to continue to engage with NHS Improvement on workforce improvement strategies, including workforce and agency oversight meetings and associated collaboratives.

## 2. Operational Performance

- 2.1. The trust will take all reasonable steps to recover operational performance to meet national standards, including but not limited to those set out in paragraphs 2.2 to 2.4, below.
- 2.2. The trust will ensure that there is a robust operational performance plan (the 'Performance Plan') in place to meet the requirements of paragraph 2.1 and will agree the Performance Plan with NHS Improvement by date to be determined by NHS Improvement.
- 2.3. The Performance Plan will, in particular:
  - 2.3.1. include the actions required to meet the requirements of paragraph 2.1, with appropriate timescales, key performance indicators and resourcing;
  - 2.3.2. describe the key risks to meeting the requirements of paragraph 2.1 and mitigating actions being taken;
  - 2.3.3. be based on realistic assumptions;
  - 2.3.4. reflect collaborative working with key system partners and other stakeholders;
  - 2.3.5. set out the key performance indicators which the trust will use to measure progress;
  - 2.3.6. be consistent with the trust's other key plans, including but not limited to those plans described elsewhere in these undertakings and the Sustainability and Transformation Plan; and
  - 2.3.7. support the trust in delivering the control totals set by NHS Improvement.
- 2.4. The trust will keep the Performance Plan and its delivery under review and provide appropriate assurance to its Board regarding progress towards meeting the requirements of paragraph 2.1, such assurance to be provided to NHS Improvement on request. 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. Finance and Recovery Plan

- 3.1. For the 2019/20 financial year the trust will ensure that robust financial recovery plans are in place to:

- 3.1.1. mitigate as far as possible any gap to the trust's control total;
  - 3.1.2. minimise the trust's reported and underlying/recurrent I&E deficit;
  - 3.1.3. minimise the trust's I&E deficit run-rate;
  - 3.1.4. maximise the delivery of recurrent CIPs; and
  - 3.1.5. minimise the trust's revenue cash support requirements.
- 3.2. For the 2020/21, 2021/22 and 2022/23 financial years the trust will develop its annual financial plans in line with national planning guidelines and timeframes. In so doing the trust will ensure:
- 3.2.1. its annual financial plans demonstrate year-on-year financial improvement (on both a reported and underlying/recurrent basis);
  - 3.2.2. its annual financial plans fully reflect opportunities for operational and financial efficiency identified in the Model Hospital;
  - 3.2.3. it works with the trust's lead commissioner to minimise any alignment differences on activity and efficiency plans;
  - 3.2.4. its annual financial plans are robust, quality assured, supported by underlying implementation plans and agreed by the trust's Board; and
  - 3.2.5. it takes all reasonable steps to ensure it is able to deliver its annual financial plans, including regular assessments of whether it has sufficient financial capability and capacity to deliver.
- 3.3. In addition, the trust will produce a detailed Financial Recovery Plan with granular detail on the assumptions used and risks and mitigations to deliver the plan. The plan should be managed through the use of an effective 'KPI dashboard'. The plan needs to consider the position into the next financial year and demonstrate:
- 3.3.1. materially reduces the trust's deficit in 2019/20;
  - 3.3.2. is financially consistent with the annual financial plan submitted to NHS Improvement for 2019/20;
  - 3.3.3. 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;
  - 3.3.4. is aligned with commissioner activity and efficiency plans;
  - 3.3.5. includes a summary of key assumptions made; and
  - 3.3.6. is quality assured and agreed by the trust's Board.
- 3.4. The trust's progress in delivering the Financial Recovery Plan will be regularly reported to its Board and to NHS Improvement.
- 3.5. The Financial Recovery Plan will be periodically updated, as and when required.
4. Distressed Finance 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 trust under Schedule 5 to the National Health Service Act, the trust will comply with any terms and conditions which attached to the financing.
  - 4.2. Where the trust receives payments from the Provider Sustainability Fund the trust will comply with any terms and conditions which attach to the payments.
  - 4.3. The trust will comply with any spending approvals processes that are deemed necessary by NHS Improvement.
5. Workforce and Governance
- 5.1. The trust will develop a comprehensive workforce plan to address workforce risks. The workforce plan should be supported by detailed underlying work programmes with key metrics and milestones to measure impact of actions and submit to NHS Improvement by the 28<sup>th</sup> February

2019. The workforce plan should align to finance and operational plans. The workforce plan should identify key delivery risks and mitigations and approved by the Trust Board.

5.2. The workforce plan should include specific improvement plan related to reduction of agency spend with a credible and ambitious trajectory to reduce spend in line with the agency ceiling in a reasonable timeframe to be agreed with NHS Improvement.

5.3. Progress on delivering the workforce plan will be tracked at the Trust's PRM and on monthly workforce calls between NHS Improvement and the trust's HR senior management team.

## 6. Improvement Director

6.1. The trust 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 trust's delivery of the QSIP milestone plan and improvement of quality of care the trust provides.

## 7. Buddy Trust and other partner organisations

7.1. The trust will co-operate and work with any partner organisations (this may include one or more 'Buddy Trusts') who may be appointed by NHS Improvement to:

7.1.1. support and provide expertise to the trust; and

7.1.2. assist the trust with the delivery of the QSIP milestone plan and the improvement of the quality of care the trust provides.

7.2. The trust will work with any such partner organisation on such terms as may be specified by NHS Improvement.

## 8. Programme Management

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

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

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

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

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

## 9. Access

9.1. 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. Access will be co-ordinated through the Executive Assistant to the Chief Executive at the trust.

## 10. Meetings and reports

10.1. The trust 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.

10.2. The trust will provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

10.3. Meetings and reports referred to above will be requested and co-ordinated through the Executive Assistant to the Chief Executive at the trust.

Any failure to comply with the above undertakings may result in NHS Improvement taking further regulatory action. This could include giving formal directions to the trust under section 8 of the National Health Service Act 2006 and paragraph 6 of the TDA Directions.

**THE TRUST**

Signed



Elaine Baylis  
Chair

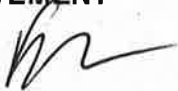


Jan Sobieraj  
Chief Executive

Dated: 9 May 2019

**NHS IMPROVEMENT**

Signed

  
*Strategy and Transformation Director*

~~Delivery and Improvement Director for the Midlands and East (Central and South) and member of the Regional Provider Support Group (Midlands and East)~~

Dated 28/5/19

