

## **ENFORCEMENT UNDERTAKINGS**

### **NHS TRUST:**

University Hospitals Plymouth  
NHS Trust  
Derriford Hospital  
Derriford Road  
Plymouth  
Devon  
PL6 8DH

### **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**

1.1. The Trust is an NHS trust whose 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 (2); (4); (5)(a), (b), (c), (d), (e) and (g); (6) and (7).

2.2. In particular:

- 2.2.1. The Trust accepted a control total for 2018/19 of £16.3million deficit (excluding Provider Sustainability Funding (PSF)) and this plan included a challenging financial improvement plan (CIP) of £32.9million, of which £10million was highlighted as unidentified and a total £16.5million as 'high risk'.
- 2.2.2. At month six, the Trust reported a significant adverse variance of £5.97million against its year to date plan excluding PSF; this represents slippage against the financial improvement plan and under-delivery of specialist income. In particular, operational pressures have meant that the Trust has not been able to deliver some of its transformational and clinical schemes.
- 2.2.3. As a result, the Trust deteriorated its reported financial forecast outturn at month six by £14.6million to a £30.9million deficit excluding PSF. It will require revenue funding in Q3 (2018/19) to support this.
- 2.2.4. The Trust does not yet have a robust workforce strategy and associated workforce planning arrangements to respond to long-standing recruitment and retention challenges, to respond to staff engagement concerns highlighted in the staff survey, and to ensure delivery of annual activity plans.
- 2.2.5. The Trust has not delivered the Accident and Emergency (A&E) 4-hour maximum waiting time standard (the 4-hour standard) for over two years and has not delivered the referral to treatment (RTT), the diagnostic and the 62-day cancer performance standards for over four years. While there have been periods of performance improvement during 2018/19, the Trust does not have a robust plan to deliver sustained improvement and Trust governance arrangements for overseeing delivery require strengthening.
- 2.2.6. In April 2018 the Care Quality Commission (CQC) rated the Trust 'Inadequate' for diagnostic imaging, with an overall Trust rating of 'Requires Improvement'. While progress by the Trust in addressing concerns around urgent and emergency services is evident, they are not yet addressed in full and further improvement is required. The CQC issued the Trust with two warning notices, dated 16 July 2018, these

were in relation to breaches of the legal requirement for the quality of health care in diagnostics and screening services, and in pharmacy services.

- 2.3. These issues demonstrate a failure of governance arrangements including failure to establish and effectively implement systems or processes:
- (a) to ensure compliance with the Trust's duty to operate efficiently, economically and effectively;
  - (b) for timely and effective scrutiny and oversight by the Trust Board of the Trust's operations; and
  - (c) to ensure compliance with healthcare standards binding on the Trust.

2.4. Need for action:

- 2.4.1. 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.

**3. Financial sustainability**

3.1. The Trust will take all reasonable steps to secure financial sustainability.

3.2. In meeting the requirements of paragraph 3.1, the Trust will:

- 3.2.1. take all reasonable steps to ensure that there is adequate clinical leadership and engagement in the development and delivery of Trust financial improvement and recovery plans;
- 3.2.2. develop and share with NHS Improvement, a medium-term recovery plan (the 'Financial Recovery Plan') agreed by the Trust Board and demonstrate that it can deliver that plan; and
- 3.2.3. continue to actively engage with local system partners to develop plans to ensure financial sustainability, including sharing relevant Trust plans with key local partners where appropriate.

**4. 4-hour performance improvement**

4.1. The Trust will take all reasonable steps to deliver the 4-hour standard in a sustainable manner.

- 4.2. In meeting the requirements of paragraph 4.1, the Trust will maintain its comprehensive A&E recovery plan and trajectory, as agreed by the Trust Board and by NHS Improvement (the 'A&E Improvement Plan') and demonstrate that it can deliver that plan.

## **5. 18 Weeks Referral To Treatment performance improvement**

- 5.1. The Trust will take all reasonable steps to deliver the Referral to Treatment (RTT) Incomplete Pathways standard and associated national sub-metrics in a sustainable manner and will take all reasonable steps to reduce patients waiting in excess of 52 weeks for treatment and without compromising the outpatient follow up position.
- 5.2. In meeting the requirements of paragraph 5.1, the Trust will maintain its comprehensive RTT recovery plan and trajectory, as agreed by the Trust Board and by NHS Improvement (the 'RTT Improvement Plan') and demonstrate that it can deliver that plan.

## **6. Diagnostics**

- 6.1. The Trust will take all reasonable steps to deliver the maximum 6-week national diagnostics standard in a sustainable manner.
- 6.2. In meeting the requirements of paragraph 6.1, the Trust will maintain its comprehensive diagnostics recovery plan and trajectory, as agreed by the Trust Board and by NHS Improvement (the 'Diagnostics Improvement Plan') and demonstrate that it can deliver that plan.

## **7. Cancer performance improvement**

- 7.1. The Trust will take all reasonable steps to deliver the national 62-day cancer performance standard and associated national sub-metrics, namely the elimination of any 104-day cancer waits, in a sustainable manner.
- 7.2. In meeting the requirements of paragraph 7.1, the Trust will maintain its comprehensive cancer access recovery plan and trajectory, as agreed by the Trust Board and by NHS Improvement (the 'CWT Improvement Plan') and demonstrate that it can deliver that plan.

## **8. Quality of care**

- 8.1. The Trust will take all reasonable steps to deliver standards of care quality

appropriate for a supplier of NHS healthcare services.

- 8.2. To deliver the requirements of paragraph 8.1, the Trust will:
  - 8.2.1. take all reasonable steps to address the concerns identified by the CQC in the inspection report and associated warning notices published in August 2018;
  - 8.2.2. maintain its comprehensive Quality Improvement Plan (QIP) incorporating the Trust actions to respond to the CQC's findings, as agreed by the Trust Board and by NHS Improvement, and will demonstrate that it can deliver the QIP; and
  - 8.2.3. will refresh the QIP upon receipt of any and all new inspection reports and warning notices.

## **9. Governance**

- 9.1. The Trust 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.
- 9.2. In meeting the requirements of paragraph 9.1, the Trust will develop an action plan (the 'Well Led Improvement Plan') to address the findings of the CQC well led assessment published in August 2018.

## **10. Delivery of plans**

- 10.1. The Trust will ensure that the Financial Recovery Plan, A&E Improvement Plan, RTT Improvement Plan, Diagnostic Improvement Plan, CWT Improvement Plan, QIP and Well Led Improvement Plan (together, the 'Plans') are developed and delivered in a robust and coherent manner which enables the Trust to meet the requirements of paragraphs 3.1, 4.1, 5.1, 6.1, 7.1, 8.1 and 9.1.
- 10.2. In meeting the requirements of paragraph 10.1, the Trust will, in particular:
  - 10.2.1. ensure that the Plans form a single, coherent and comprehensive approach to addressing the challenges facing the Trust, with clear milestones, action owners and KPIs;
  - 10.2.2. ensure that the Plans are reviewed and agreed by NHS Improvement and lead commissioners and will provide the basis for joint work with commissioners and local system partners to develop a single whole-system recovery plan;
  - 10.2.3. keep the Plans and their delivery under review and provide appropriate assurance to its Trust Board regarding progress towards

meeting the requirements of paragraphs 3.1, 4.1, 5.1, 6.1, 7.1, 8.1, 9.1 and 10.1, such assurance to be provided to NHS Improvement on request; and

- 10.2.4. where matters are identified which materially affect the Trust's ability to meet the requirements noted at 10.1 above, whether identified by the Trust or another party, the Trust will notify NHS Improvement as soon as practicable and update and re-submit the affected Plan(s) within a timeframe to be agreed with NHS Improvement.

## **11. Programme management**

- 11.1. The Trust will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.
- 11.2. Such programme management and governance arrangements must enable the Trust Board to:
- 11.2.1. obtain clear oversight over the process in delivering these undertakings;
  - 11.2.2. obtain an understanding of the risks to the successful achievement of the undertakings and ensure appropriate mitigation; and
  - 11.2.3. hold individuals to account for the delivery of the undertakings.

## **12. Meetings and reports**

- 12.1. 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.
- 12.2. The Trust will provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

## **13. Funding conditions and spending approvals**

- 13.1. 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 NHS Act 2006, the trust will comply with any terms and conditions which attach to the financing.
- 13.2. Where the Trust receives payments from the Sustainability and Transformation Fund (STF), the Trust will comply with any terms or conditions which attach to the payments.
- 13.3. The Trust will comply with any spending approvals processes that are

deemed necessary by NHS Improvement.

**THE TRUST**



(Chair or Chief Executive of Trust)

Dated 26th March 2019

**NHS IMPROVEMENT**

Signed



Richard Schofield

Delivery and Improvement Director, South-West (South) and Member of the Regional  
Provider Support Group (South)

Dated 29.03.2019