

ENFORCEMENT UNDERTAKINGS NHS

TRUST:

University Hospitals of North Midlands NHS Trust ("the Trust")
Royal Stoke University Hospital
Newcastle Road
Stoke-on-Trent
ST4 6QG

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.

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); FT4(5)(a),(b),(c),(d),(e), (f) and (g); and FT 4(6)(c).

2.2. In particular:

Financial Issues

2.2.1 The Trust agreed a control total deficit for 16/17 of £(20.2)m, excluding sustainability and transformation funding (STF), but reported a significant negative variance against this control total plan. The Trust reported a deficit of £(36.7)m before STF; after £8.9m STF the reported position was a £27.8m deficit, an adverse variance of £7.6m;

2.2.2 The Trust was unable to accept the 17/18 control total deficit of £(19.3)m, excluding STF, and submitted a significant deficit plan of £(119.1)m – a key driver for this was due to the reduction in deficit support

2.2.3 The 17/18 planned deficit was predicated on delivery of £32m of Cost Improvement Programmes (CIPs). It took until the Trust's meeting with NHS Improvement(28 July) for this quantum of CIPs to be developed.

Operational Performance Issues

2.2.4 At month 12 2017/18, the Trust has breached the Accident and Emergency 4 hour maximum waiting time target ("the A&E standard") consistently since November 2013. The Trust has failed to address its A&E performance sustainably over this period and has not delivered its recovery trajectory in 2017/18.

2.2.5 The Trust has breached the Referral To Treatment Incomplete Pathways standard (the "RTT standard") since January 2015, and has consistently reported patients waiting in excess of 52 weeks for treatment. In addition the Trusts implementation of the Medway Electronic Patient Record in January 2017 has exposed significant data accuracy issues, further impacting on the achievement of this standard.

2.2.6 Whilst there has been a significant reduction in the backlog of patients waiting for cancer treatment during 2017/18, the Trust has breached the Cancer 62 day performance standard (the "Cancer standard") since December 2014 apart from achievement in 1 month (March 2016) and subsequently in March 2018, June 2018 and July 2018.

2.3 These failings by the Trust demonstrate a failure of governance arrangements including, in particular, 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 Board of the Trust's operations;
- (c) to ensure compliance with healthcare standards binding on the Trust.

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.

UNDERTAKINGS

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

Special Measures (for financial reasons)

1. Financial recovery plan

1.1. Following the first Special Measures (for financial reasons) Progress Review Check (as referred to in 5.1 below), the Trust will develop a financial recovery plan (FRP), quality-assured and approved by its Board, and that is agreed by and meets a series of requirements set by NHS Improvement.

1.2. The scope and detailed content of the FRP will be agreed with NHS Improvement. It is likely to include, but is not limited to:

- 1.2.1. actions to address the key financial issues, with a high level milestone plan for the Trust to deliver the FRP;
- 1.2.2. a monthly profile of underlying and planned financials, including the monthly phasing of the CIPs;
- 1.2.3. details of extra controls and other measures the Trust has already put in place since being put into Special Measures (for financial reasons) to immediately strengthen financial control, which may relate, for example, to staff pay costs, procurement, cash, delegated financial limits and programme management offices;
- 1.2.4. details of how the Trust will deploy sufficient resources to ensure implementation of the FRP;
- 1.2.5. a description of systems and processes the Board will use to gain assurance on the delivery of the CIPs and the wider FRP;
- 1.2.6. details of the Trust governance arrangements for approval and delivery of the FRP.

1.3. The FRP will cover a sufficient timeframe to return the Trust to a breakeven position.
If this requires a multiple financial year time scale, the Trust must produce the FRP on this basis.

1.4. When developing the plan, the Trust will engage effectively with key stakeholders, including commissioners, and will reflect their views appropriately in the FRP.

1.5. The FRP is subject to review and approval by NHS Improvement.

2. Financial recovery plan delivery

2.1. The Trust will demonstrate to NHS Improvement a period of successful implementation of the FRP and assurance of continued focus, capability and capacity to sustainably maintain financial recovery and deliver the FRP.

2.2. The Trust Board will keep the FRP under continuous review and will update it as required. Any proposed updates will be subject to the review and approval by NHS Improvement.

3. Financial Improvement Director and NHS Improvement team

3.1. The Trust will co-operate and work with a Financial Improvement Director as and when appointed by NHS Improvement to oversee and provide independent assurance to NHS Improvement on the Trust's actions to deliver its financial recovery, including the FRP. The Trust will similarly cooperate with the NHS Improvement team.

3.2. The Trust will provide the Financial Improvement Director and the NHS Improvement team supporting them with full access to the Trust's key personnel, meetings, resources, Board members, advisers and information, as well as any other members of its staff considered necessary by NHS Improvement, while the Trust is in Special Measures (for financial reasons).

4. Financial Control

4.1. The Trust will comply with any arrangements specified by NHS Improvement for the approval of the Trust's decisions on expenditure.

5 Operational Performance Issues

5.1 The Trust will take all reasonable steps to recover operational performance to meet national standards including, but not limited to, the actions set out in paragraphs 5.2 to 5.19 below.

Urgent Care

5.2 The Trust will produce and submit to NHS Improvement an updated Internal Urgent Care Action Plan to achieve sustainable compliance with the A&E standard.

5.3 The updated plan will be submitted to NHS Improvement for review and approval by a date to be agreed with NHS Improvement.

5.4 The Internal Urgent Care Action plan will include, in particular:

5.4.1 A narrative of the current drivers of performance below the A&E standard;

5.4.2 The Trust's planned actions to improve A&E performance at the Trust.

The actions should include realistic assumptions, key performance indicators against each action, resourcing and expected impact on overall A&E performance; and

5.4.3 The Trust's trajectory to deliver the A&E standard.

5.5 The Trust will implement all the actions in the Internal Urgent Care Action Plan within timescales set out in that plan, unless otherwise agreed by NHS Improvement.

- 5.6 The Trust will take all reasonable steps to work with system partners to develop a system wide action plan and recovery trajectory for addressing urgent care performance.
- 5.7 The Trust will continue to work with the support of external experts to provide assistance in making recommendations for improvement and will incorporate these into the Internal Urgent Care Action Plan to be submitted to NHS Improvement.
- 5.8 The Trust will take all other reasonable steps to deliver compliance with the A&E standard on a sustainable basis within a timeline to be agreed with NHS Improvement.
- 5.9 The Trust will report to NHS Improvement on the implementation of the updated A & E plan each month or an alternative frequency if required by NHS Improvement.
- 5.10 The Trust will keep the Internal Urgent Care Action Plan and its delivery under review and provide appropriate assurance to its Board regarding progress towards meeting the requirements.

Referral to Treatment

- 5.11 The Trust will take all reasonable steps to achieve compliance with the nationally defined RTT standard and have no patients waiting in excess of 52 weeks for treatment on a sustainable basis.
- 5.12 The Trust will produce and submit to NHS Improvement an action plan to address the findings of the August 2017 IST RTT Systems and Processes Diagnostic and IST Data Quality Review (the Processes Plan). The Processes Plan will be submitted to NHS Improvement for review and approval by a date to be agreed by NHS Improvement.
- 5.13 The Processes Plan should set out credible actions and timescales for achieving accurate waiting list information and implementing operational performance and governance structures to enable the Trust to manage its RTT performance.
- 5.14 The Trust will implement all the actions in the Processes Plan within the timescales set out in that plan, unless otherwise agreed by NHS Improvement.
- 5.15 The Trust will carry out a demand and capacity review with the support of IST, at a time to be agreed by NHS Improvement. This review will include input / validation from CCGs and agreement over the affordability of activity plans.
- 5.16 The Trust will produce and submit to NHS Improvement a recovery plan to return to compliance with the RTT. The plan will be submitted to NHS Improvement for review and approval by a date to be agreed with NHS Improvement.
- 5.17 The plan will include key milestones and a monthly performance trajectory. The Trust will implement all the actions in the RTT plan within timescales set out in the RTT plan, unless otherwise agreed by NHS Improvement.

5.18 The Trust will report to NHS Improvement on the implementation of the plan each month or an alternative frequency if required by NHS Improvement.

Cancer Standard

5.19 The Trust will take all reasonable steps to deliver the Board approved trajectory for recovery of the national Cancer 62 day standard by June 2018, and will work with NHS Improvement to explore any opportunities for achievement of the Cancer standard ahead of this date.

6 Reporting

6.1 The Trust will meet the NHS Improvement Executive Sponsor and other representatives of NHS Improvement, including the Financial Improvement Director, for periodic 'Comprehensive Progress Review Meetings' as and when specified by NHS Improvement. These sessions will combine 'Special Measures Progress Review Check' sessions with the wider 'Progress Review Meetings'. The Trust will complete all requirements coming out of the 'Comprehensive Progress Review Meetings' within timescales agreed by NHS Improvement.

6.2 The Trust will attend other meetings or, if NHS Improvement stipulates, conference calls, during the period of Special Measures (for financial reasons) to discuss its progress in meeting the undertakings set out above. These meetings will, unless NHS Improvement stipulates otherwise, take place at times and places to be specified by NHS Improvement and with attendees specified by NHS Improvement.

6.3 The Trust will comply with any additional reporting or information requests made by NHS Improvement.

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  .

(~~Chair~~ Chief Executive of Trust) - PAULA CLARK .

Dated 16/08/2018

NHS IMPROVEMENT

Signed



Fran Steele, Delivery and Improvement Director, NHS Improvement

(Note: undertakings can be accepted/signed by a DID where the RSG pass a resolution enabling the individual member to act for the Group pursuant to the TSG terms of reference)

Dated re-signed as original  28/2/19 .