

ENFORCEMENT UNDERTAKINGS

NHS TRUST:

Worcestershire Acute Hospitals NHS Trust ("the Trust")
Charles Hastings Way
Worcester
WR5 1DD

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.

These undertakings include the actions which have been agreed in consequence of the trust being in special measures for quality.

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(5)(a) to (d), (f) and FT4(6)(a) to (f) and FT4(7).

2.2. In particular:

Quality

2.2.1. An inspection of the trust by the CQC during January and March 2018 resulted in the trust being given an overall rating by the CQC of 'Inadequate' with the safe and responsive domains also being rated inadequate.

2.2.2. The overall concerns were focused on the trust's Worcestershire Royal Hospital site which was rated inadequate in Urgent and Emergency Care, Surgery, and Outpatients overall. The Alexandra site was rated inadequate for safe, responsive and well led domains overall and inadequate for Surgery and Outpatients overall. Further details are contained the CQC's report dated 5th June 2018 ('the CQC Report').

Operational performance

2.2.3. The trust has not achieved the A&E 4 hour waiting time since September 2014 and did not deliver its recovery trajectory in 2017/18. 2018/19 YTD performance is 79.8% at December 2018.

2.2.4. The trust did not achieve the 62 Day Cancer standard during 2017/18 and did not deliver its recovery trajectory. 2018/19 performance has not demonstrated recovery against the agreed trajectory, and a robust recovery plan has not been developed.

Performance YTD

	2018/19 Q1	2018/19 Q2
Cancer 62 day	75.5%	73.8%
Cancer 104 days	26	40

2.2.5. The trust has breached the Diagnostic performance (DM01) standard having not achieved the <1% standard since February 2016 and, to date, no recovery plan has been developed or delivered

Financial Performance

2.2.6. 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 £42.7m, excluding STF. The trust outturn position for 2017/18 was a deficit of £57.9m, excluding STF.

2.2.7. For 2018/19 the trust's financial plan is to deliver the control total of a deficit of £41.5m excluding PSF. However, the trust has indicated that it will revise its Forecast Outturn (FOT) and have identified that the most likely outturn will be a deficit of £72.5m excluding PSF. excluding the reported issue in relation to emergency costs

2.2.8. Workforce and Use of Agency: The Trust has an agency ceiling of £17.291m. As at month 9 the Trust has spent £15.710m on agency staffing and is forecasting expenditure of £22.9192m, £4.901m above cap. This variance is in the main due to additional unplanned winter capacity in order to meet demand. In addition to this the Trust has had a number of workforce CIPs such as rota grip and control and leave management. These were expected to reduce agency spend but they have not delivered.

2.3. Failures and need for action

These failings by the trust demonstrate a failure of governance arrangements and financial management including, in particular:

2.3.1. failure to establish and effectively implement systems or processes:

- 2.3.1.1. to ensure compliance with the trust's duty to operate efficiently, economically and effectively;
- 2.3.1.2. for timely and effective scrutiny and oversight by the Board of the trust's operations;
- 2.3.1.3. to ensure compliance with healthcare standards binding on the trust;
- 2.3.1.4. to ensure that the trust's services are safe and of sufficient quality.

2.3.2. failure to establish and effectively implement or apply systems, standards and/or processes:

- 2.3.2.1. 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
- 2.3.2.2. 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.

UNDERTAKINGS

NHS Improvement has agreed to accept and the trust has agreed to give the following undertakings:

1. Quality Improvement Strategy and Regulatory Requirements Milestone Plans

- 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.
- 1.2. The trust will refresh the existing Quality Improvement Plans (QIPs) for emergency access (EAS) following completion of the current baseline assessment of the QIPs and their information reporting systems.
- 1.3. The trust will continue to provide updates on progress with achievement of the existing Quality Improvement Strategy (QIS) and the associated milestones of the QIPs.
- 1.4. The trust will continue to cooperate with arrangements for oversight of the achievement of the QIS and the individual regulatory requirements via the single system Quality Improvement Review Group (QIRG), led by NHS Improvement. The QIRG comprises NHS Improvement, CQC, NHS England, the CCG and Health Watch, and is established to provide system support to the trust. The trust will

modify the QIPs if required to do so by NHS Improvement in response to feedback from the QIRG.

- 1.5. The trust will demonstrate that it is able to deliver all the QIPs including demonstrating that it has sufficient capacity at both executive and other levels of management to enable delivery of these.
- 1.6. The trust will keep the QIPs and their delivery under review. Where matters are identified which materially affect the trust's ability to deliver the QIPs, whether identified by the trust or another party, the trust will notify NHS Improvement as soon as practicable and update and resubmit the QIPs within a timeframe to be agreed by NHS Improvement.
- 1.7. The trust will ensure that the delivery of the QIPs, 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.

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 2.5, below.

Demand and capacity planning

- 2.2. The trust will ensure it has in place a robust demand and capacity plan for 2019/20 by the end of March 2019, alongside implementing a rolling process of reviewing run-rate demand and capacity and producing detailed forward demand and capacity plans for 1 and 2 months, with this detailed process having a regular feedback loop into the 2019/20 plan.

Emergency Care

- 2.3. The trust will take all reasonable steps to recover operational performance to meet its projected performance and achieve sustainable compliance with the 4 hour A&E standard in 2019/20. The trust will submit a revised trajectory and recovery plan as part of the planning process for 2019/20 See section 1.2 with regard to a significant refresh of the emergency access quality improvement plan.

Diagnostics

- 2.4 The trust will take all reasonable steps to recover overall diagnostics performance (DM01) to <1 % in 2019/2020. The trust will submit a recovery plan and revised trajectory to NHS Improvement by 12th April 2019.

Cancer

- 2.5 The trust will take all reasonable steps to recover cancer performance; 62 day, in line with the agreed trajectories by June 2019. The draft recovery plan needs to be strengthened following feedback and to be submitted to NHS Improvement by 12th April 2019.

The Operational Plan

2.6 The trust will ensure that there is a robust and board approved operational plan in place for 2019/20 (Operational Plan) to meet national planning guidance and the requirements of paragraph 2.1 and will agree the Operational Plan with NHS Improvement in line with national timescales.

2.7 The Operational Plan will, in particular:

- 2.7.1 include the actions required to meet the requirements of paragraph 2.1, with appropriate timescales, key performance indicators and resourcing including financial impact;
- 2.7.2 describe the key risks to meeting the requirements of paragraph 2.1 and mitigating actions being taken;
- 2.7.3 be based on realistic assumptions; the trust is discussing with commissioners activity and bed capacity and how this will be commissioned for 2019/20
- 2.7.4 reflect collaborative working with key system partners and other stakeholders;
- 2.7.5 set out the key performance indicators which the trust will use to measure progress;
- 2.7.6 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
- 2.7.7 support the trust in delivering their agreed financial plan for 2019/20

2.8 The trust will keep the Operational 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 take mitigating actions and a revised recovery plan and resubmit within a timeframe to be agreed with NHS Improvement.

3 Finance

Understanding the drivers of the deficit

3.1 The trust will rapidly identify and set out in writing and submit for agreement to NHS Improvement, by 31st March 2019:

- 3.1.1 a robust understanding of the underlying causes of the trust's financial position vs. appropriate peers to include the identification of:
- 3.1.2 drivers which are out of the trust's control ('Structural'); and
- 3.1.3 drivers that the trust has some control over but will require the input of other STP stakeholders to address ('Strategic'); and
- 3.1.4 drivers that are wholly within trust control ('Operational').
- 3.1.5 an overview of the evidence underpinning the rationale for the driver and range of values/value identified; and to include analysis of service line contribution.

3.2 Medium term financial strategy (MTFS)

The MTFS will be informed by the work the trust is undertaking on the clinical and workforce strategies, which, together with the financial strategy and a refresh of the Trust's vision, purpose and ambition will form the Trust's overall strategic plan.

The trust will identify, set out in writing and submit for agreement to NHS Improvement a 3 year medium-term financial strategy (MTFS). The drivers of deficit analysis will inform the actions to be set out within the MTFS. The MTFS will set out how and when the trust will return to financial balance (excluding structural deficit), given the exit position and run rate for 2018/19. The date for submission will be agreed between the Trust and NHS Improvement.

The scope and detailed content of the MTFS will be as agreed with NHS Improvement but will include:

- 3.2.1 **Key assumptions:** description of key assumptions and drivers of future financial flows around income (including contracting) taking into account the current STP medium term planning , expenditure, workforce, activity, and capacity;
- 3.2.2 **Enabling strategies:** building upon and including appropriate references to, the trust's strategic plans across all key areas, to include: quality; clinical; workforce; operational; estates and capital; digital and IT;
- 3.2.3 **Efficiencies:** clear articulation of the efficiency requirement over the period with a detailed plan for 2019/20 and themes for future years as a minimum, including demonstrating how the trust is addressing Model Hospital efficiency opportunities;
- 3.2.4 **Delivery milestones and actions:** actions to address the key issues identified through the work on the drivers of the deficit and to deliver the MTFS, including a high-level milestone plan for delivery of the trust's key schemes to deliver the MTFS;
- 3.2.5 **Financial model to breakeven:** a fully populated Long Term Financial Model with a credible trajectory to the break-even position which shows improvement in the monthly run rate from year 1; supported by bridging analysis to show key changes;
- 3.2.6 **Service level reviews:** a trajectory at individual service level for returning low/no contribution and loss-making services identified to a break-even position or to an agreed alternative delivery solution (to include consideration of services that are a clinical sustainability risk);
- 3.2.7 **Sensitivities:** pressure testing of key assumptions to identify the factors that most influence/impact delivery of the MTFS;
- 3.2.8 **Risks and mitigations:** potential risks to delivery of the MTFS and how the trust would mitigate these;
- 3.2.9 **Financial support:** analysis to show the revenue and capital cash support that will be needed over the period;
- 3.2.10 **Resourcing:** details of both the level of resourcing needed to deliver the MTFS and how the trust will deploy sufficient resources to ensure its implementation;
- 3.2.11 **Assurance:** the governance, assurance and programme management arrangements to support delivery of the identified efficiencies and overall operational delivery plan (including the trust's internal assurance approach); and
- 3.2.12 **Oversight:** details of the trust governance arrangements for approval and delivery of the MTFS.

3.3 The Operational Plan will form the base year for the MTFS.

3.4 The trust will ensure that the MTFS is robust, quality-assured and agreed by the trust's Board and that it links through to the overall trust strategy and supporting strategies (e.g. Workforce, Clinical Services, Estates).

- 3.5 When developing the MTFS, the trust will engage effectively with key stakeholders, including commissioners, and will reflect their views appropriately in the MTFS.
- 3.6 The trust will, if deemed necessary by NHS Improvement, commission external support and/or assurance to assist it in developing the MTFS. The provider and scope of the support and/or assurance will be agreed with NHS Improvement.
- 3.7 The trust will take all reasonable steps to secure that it is able to deliver the MTFS once approved by NHS Improvement.

MTFS delivery

- 3.8 The trust will demonstrate to NHS Improvement a period of successful implementation of the MTFS through achievement of the Operational Plan and assurance of continued focus, capability and capacity to sustainably maintain financial recovery and deliver the MTFS.
- 3.9 The trust will, if deemed necessary by NHS Improvement, appoint a Turnaround Director to support it in the delivery of their Financial Plan for 2019/20.

4. Funding conditions 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 2006, the trust will comply with any terms and conditions which attach to the financing.
- 4.2. Where the trust receives payments from the Provider Sustainability Fund, the trust will comply with any terms or 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 key 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 a date to be agreed with NHS Improvement.
- 5.2. The workforce plan should include a 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.

6. Improvement Director

- 6.1 The trust will co-operate and work with the Improvement Director appointed by NHS Improvement to oversee and provide independent assurance to NHS Improvement on the trust's delivery of the quality plans 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 quality plans 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.

7.3. The Trust will be engaging with system partners to build a coalition in order to support the delivery of the improvements that are required

8. Programme Management

8.1. The trust will maintain 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



(Chair or Chief Executive of trust)

Dated 9-5-19

NHS IMPROVEMENT

Signed

Julie Grant

Delivery and Improvement Director Midlands and East and member of the Regional Provider Support Group (Midlands and East)

Dated

16 May 2019