

## **ENFORCEMENT UNDERTAKINGS**

### **NHS TRUST:**

George Eliot Hospital NHS Trust ("the Trust")  
College Street  
Nuneaton  
Warwickshire  
CV10 7DJ

### **DECISION:**

On the basis of the grounds set out below and pursuant of 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.

### **BACKGROUND:**

The Trust agreed undertakings on 28 March 2018. Since then the trust has made some positive progress. The Trust was inspected in November of 2018 and the CQC published its final report on 26 February 2019. The Trust remains rated overall as Requires Improvement. The CQC recorded an improvement to "Requires Improvement" in the well-led domain. The Trust was also removed from the 'Challenged Provider' status.

A Certificate of Compliance was issued for the undertakings in relation to operational performance and leadership and governance.

Despite some evidence of progress, NHS Improvement continues to have concerns about operational performance in relation to A&E, cancer performance and confidence to deliver the 2019/20 Financial Control Total.

NHS Improvement is now taking regulatory action in the form of these updated undertakings which replace and supersede the outstanding March 2018 undertakings in relation to finance, funding conditions and spending approvals, meetings and reporting, access and programme management and introduces new undertakings in relation to A&E and cancer performance.



## 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 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" mean the National Health Service Trust Development Authority Directions and Revocations and the Revocations of the Imperial College Healthcare National Health Service Trust Directions 2016.

## FOUNDATIONS:

### 1. The Trust

1.1. The Trust is an NHS trust all or most of whose hospitals, facilities and establishments are situated in England.

## BREACHES:

### 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

##### Operational Performance

2.3. The Trust has not met the 4hr A&E waiting time standard since August 2017 and did not sustain its performance trajectory following quarter 1 during 2018/19.

2.4. The Trust continues to struggle to deliver against the 4hr A&E waiting time standard. Performance in 2019/20 remains below trajectory at 85.5% in July against a plan of 91.7%. YTD performance is 80.5% as at July 2019.

2.5. The Trust has not achieved the Cancer 62-day standard since February 2019. Prior to this date, performance has remained consistently below trajectory since June 2018. Actual performance in June 2019 was 80%.

Apr-18	May-18	Jun-18	Jul-18	Aug-18	Sep-18	Oct-18	Nov-18	Dec-18	Jan-19	Feb-19	Mar-19	Apr-19	May-19	Jun-19
91.4%	89.7%	85.5%	71.4%	78.8%	66.7%	72.7%	76.7%	82.2%	69.2%	87.5%	76.9%	84.1%	73.2%	80.0%

##### Financial Issues

2.6. For 2018/19, the Trust agreed a deficit control total of £18.498m excluding PSF (Control total including PSF was a deficit of £14.276m). Whilst the Trust achieved this, it was only

possible due to the release of reserves and additional commissioner support. This allowed the Trust to mitigate the following pressures:

- 2.6.1. £2.6m non-achievement of CIP. This mainly relates to productivity-based income CIPs within outpatients and theatres;
  - 2.6.2. £0.9m successful commissioner contract challenges, mainly related to incorrect charging of high cost drugs and non-approval of low priority procedures;
  - 2.6.3. £0.7m failure to deliver elective activity plans due to winter pressures;
  - 2.6.4. £0.6m additional winter costs and £0.6m unfunded investment into the service quality improvement team;
- 2.7. For 2019/20 the Trust has submitted a pre PSF, MRET and FRF plan delivering a deficit of £15.776m in line with the control total (break-even including PSF, FRF and MRET). This plan is based on CIP delivery of £10.216m (5.79%). All has been identified but the Trust has internally rated £4.231m as high risk in terms of deliverability. Delivery of this level of CIP will be a significant challenge and will require a step change in delivery from previous years.

### Quality

- 2.8 The Trust was inspected by the Care Quality Commission (CQC) in November of 2018 and the CQC published its final report on the 26th February 2019. The Trust remains rated as Requires Improvement overall. The CQC recorded an improvement to "Requires Improvement" in the well-led domain.
- 2.8.1 The Emergency Department (ED) was escalated as an area of concern following a triangulation of quality data from various announced and unannounced visits by both the CCG and CQC. There had been an increase in reported serious incidents compared to the previous year identifying management of sepsis patients as a theme. The corridor escalation policy for the deteriorating patients had been triggered due to seasonal acuity.
  - 2.8.2 A CQC action plan has been developed by the Trust and is being implemented. Progress is shared on a regular basis with the relationship team.
  - 2.8.3 The Trust has been a statistical outlier for mortality for some time Hospital Standardised Mortality ratio (HSMR) reported figure for the period January 2018 – December 2018 is 122.4 with slight improvement for the last three reporting periods. The Summary Hospital-level Mortality (SHMI) for the period March 18 – March 19 (published August 2019) is 1.12 SHMI is within the expected range but the HSMR is still in the 'higher than the expected range.
  - 2.8.4 The Trust has developed a Mortality and Deteriorating Patients Improvement plan which is being delivered and with particular focus on SHMI engaging with GPs to review local pathways and share best practice.
- 2.9 Failures and need for action

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

- 2.9.1 failure to establish and effectively implement systems or processes;
- 2.9.2 to ensure compliance with the Trust's duty to operate efficiently, economically and effectively;
- 2.9.3 for timely and effective scrutiny and oversight by the Board of the Trusts operations; to ensure compliance with healthcare standards binding on the Trust;

## UNDERTAKINGS

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

### 1. Operational Performance

#### *Urgent and Emergency Care*

- 1.1. The trust will take all reasonable steps to improve and recover performance in line with the 2019/20 trajectory ensuring operational performance is sustained by the end of March 2020. The Trust will submit a comprehensive Urgent and Emergency Care recovery plan that is Trust approved to NHS/I (timescales to be agreed).
- 1.2. This plan will in particular:
  - 1.2.1. be based on information derived from elective demand and capacity modelling
  - 1.2.2. include the actions required to meet the requirement of paragraph 2.1 with appropriate timescales, key performance indicators and resourcing
  - 1.2.3. describe the key risks to meeting the requirements of the paragraph 2.1 and mitigating actions being taken
- 1.3. The trust will provide monthly updates on improvements made to the urgent care pathway.
- 1.4. The trust will ensure the Local A&E Delivery Board is sighted on the capacity requirements and works collaboratively to develop the most appropriate system model with appropriate community provision.
- 1.5. The trust will work with any partner organisation who may be appointed by NHS Improvement to support and provide expertise to the Trust; and assist the Trust with the delivery of the recovery plan.

#### *Cancer*

- 1.6. The Trust will take reasonable steps to recover and sustain 62-day cancer performance in line with the agreed trajectories for 2019/20. The trust will submit a robust cancer recovery plan that is Trust approved to NHS/I (timescales to be agreed).
- 1.7. This plan will in particular:
  - 1.7.1. be based on information derived from effective demand and capacity modelling
  - 1.7.2. include the actions required to meet the requirement of paragraph 2.6 with appropriate timescales, key performance indicators and resourcing
  - 1.7.3. describe the key risks to meeting the requirements of the paragraph 2.6 and

mitigating actions being taken

- 1.7.4. The trust will work with any partner organisation who may be appointed by NHS Improvement to support and provide expertise to the Trust; and assist the Trust with the delivery of the recovery plan

## 2. Finance Performance

### *2019/20 Performance*

2.1. The Licensee will ensure that robust financial plans are in place to:

- 2.1.1.1. deliver the 2019/20 control total and planned CIPs; and
- 2.1.1.2. minimise the revenue cash support requirement.

2.2. The Licensee will take all reasonable steps to ensure that 2019/20 CIP plan, as set out in plans submitted to NHS Improvement in May 2019, are fully delivered with full assessment being completed on the impact of schemes on quality and the Licensee's underlying financial position.

2.3. The Licensee will comply with planning guidance issued by NHS England and NHS Improvement in January 2019 and June 2019 related to receipt of the financial recovery fund in 2019/20. The Licensee will have in place financial recovery plans as part of the five-year system level strategic plans by December 2019. These plans will demonstrate recurrent financial improvement as measured by I&E run-rate and planned financial outturn, and which return the Licensee to sustainable financial balance.

2.4. The Licensee will develop a long-term financial model (LTFM) to achieve a sustainable financial position that aligns with the Coventry and Warwickshire Sustainability and Transformation Plan (the STP); the Licensee's strategic direction and the STP strategic and financial context. The Licensee will work constructively with STP partners to develop a long-term plan in line with guidance issued by NHS England and NHS Improvement in June 2019. The Licensee will agree the long-term plan with system leads and partners by mid-November 2019 and publish the plan in December 2019.

### *Governance*

2.5. The Trust should ensure that appropriate governance arrangements are in place to deliver both the submitted 2019/20 plan and the LTFM. These structures will be reviewed and approved by the NHS E/I regional team.

### Quality

2.6 The Trust will ensure that the actions it takes to meet the above financial undertakings do not compromise its progress towards implementing the Quality Improvement Plans to address the concerns identified in, but not limited to, CQC reports. The Trust will provide updates on the progress of their Quality Improvement Plans, advising NHSE/I of any financial matters that materially affect their ability to deliver the plans within agreed timelines.

2.7 The trust should ensure that it has sufficient capacity at both executive and other levels of management to enable delivery of the financial improvements and ensure that these measures do not compromise the overall quality of its services.

### 3. Programme Management

3.1. The Trust will maintain sufficient programme management and governance arrangements to enable delivery of these undertakings. Such programme management and governance arrangements must enable the board to:

- 3.1.1. Obtain clear oversight over the process in delivering these undertakings;
- 3.1.2. Obtain an understanding of the risks to the successful achievement of undertakings and ensure appropriate mitigation; and hold individuals to account for the delivery of the undertakings.

### 4. Access

4.1. The Trust will provide to NHS Improvement direct access to its advisors, programme leads, and the Trust 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.

### 5. Meetings and reports

5.1. 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.

5.2. The Trust will provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require. 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 17/12/19.

**NHS IMPROVEMENT**

Signed (Acting Director of Strategic Transformation (West Midlands) and member of the Regional Support Group – Midlands)



Dated 18/12/19

