

ANNEX 1 ENFORCEMENT UNDERTAKINGS

NHS TRUST:

University Hospitals of Leicester NHS Trust
Headquarters
Level 3, Balmoral Building
Leicester Royal Infirmary
Infirmary Square,
LE1 5WW

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(5)(a) to (e), and FT4(6)(a) to (f).

2.2. In particular:

Operational Performance

2.2.1. The Trust continues to fail to deliver the 4 Hour Access Standard despite targeted support and the benefit of a purpose built, state of the art Urgent Care facility. The on-going poor performance regularly places UHL and the

LLR System in the bottom 15 nationally for "All Type" 4 Hour Access Standard performance. Since April 2017 the trust has delivered above 85% on only one occasion (May 2018). The Trust has not delivered its 19/20 plan in Q1. And has not delivered against its 19/20 plan for Months 1-5.

Financial position

- 2.2.2. In 2017/18 the Trust reported a deficit of £36.7m and did not meet its control total deficit.
- 2.2.3. In 2018/19 the Trust reported a deficit of £54.8m and did not meet its plan or control total deficit.

Quality position

- 2.2.4. An inspection of the Trust by the CQC published March 2018 resulted in the Trust being given an overall rating by the CQC of 'Requires Improvement' with the well-led domain being rated 'Requires Improvement'. There had been no improvement in the overall rating since the previous 2 inspections published January 2017 and March 2014.
- 2.2.5. The overall concerns in the inspection published March 2018 were focused on the Trust's non - compliance to mandatory training targets, medical and nurse recruitment and the shift fill, lapses in infection prevention and control, concerns related to medicines management, clinical governance was not robust, knowledge and application of the Mental Capacity Act was not embedded, record keeping standards and care and monitoring of equipment.
- 2.2.6. The Trust had 6 NEs in 2017/18; 7 in 2018/19 and 4 so far in 2019/20, which raise concern regarding learning and action within the organisation from these incidents to prevent reoccurrence.

2.3. 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 Licence do not continue or recur.

2.4. 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. Operational performance (Urgent and Emergency Care)

- 1.1. The Trust will take all reasonable steps in order to meet its projected operational performance and achieve sustainable compliance with the 4-hour A&E standard, in line with the Trust trajectory as set out in the board approved plan for 2019/20 submitted to NHS Improvement.
- 1.2. Via regular Escalation Meetings, the Trust will keep NHS Improvement updated about its Urgent and Emergency Care improvement plans and those of the wider system aimed at achieving compliance with the standard on a sustainable basis.
- 1.3. The Trust will continue to work with the Emergency Care Improvement Team and any other external support offerings as recommended by NHS Improvement to provide assistance in making recommendations for improvements and incorporate these into the Urgent and Emergency Care action plan to be submitted to NHS Improvement.
- 1.4. The Trust will ensure that the plans are co-produced with and endorsed by the A&E Delivery Board and the STP System Leadership Team.
- 1.5. The Trust will keep the Urgent and Emergency Care plan and its delivery under review and provide appropriate assurance to its Board regarding progress towards meeting the requirements in paragraph 1.1.

2. Financial Performance

- 2.1. The Trust will ensure that robust financial recovery plans and governance arrangements are in place in 19/20 to:
 - 2.1.1. deliver its financial recovery plans, 19/20 control total and planned CIPs;
 - 2.1.2. minimise the revenue cash support requirement; and
 - 2.1.3. recurrently reduce its I&E deficit run rate.
- 2.2. The Trust will take all reasonable steps to ensure that the 19/20 CIP plan for £26.6m, as set out in plans submitted to NHS Improvement in May 2019, is fully delivered with full assessment being completed on the impact of schemes on quality and the Trust's underlying financial position.
- 2.3. The Trust 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.
- 2.4. The Trust will work constructively with Leicester, Leicestershire, and Rutland STP partners to develop a long-term plan in line with guidance issued by NHS England and NHS Improvement in June 2019. This long-term plan will demonstrate recurrent financial improvement as measured by I&E run-rate and planned financial outturn as agreed with NHS England and Improvement.
- 2.5. The Trust will develop a long-term financial model (LTFM) that aligns with the Leicester, Leicestershire, and Rutland STP's agreed long-term plan, the Trust's strategic direction and the STP's strategic and financial context. The Trust will agree

the LTFM with its Board, system leads and partners and share it with NHS England and NHS Improvement by February 2019.

2.6. The Trust will take all reasonable steps to ensure that appropriate governance arrangements are in place to deliver its LTFM and its system's long-term plan.

3. Quality Improvement

3.1 The Trust will continue to implement the Quality Strategy approved by the Trust Board in February 2019 in order to deliver sustainable improvements in the quality of care it delivers and address the issues raised in previous CQC inspections. This will include development of an appropriate implementation plan incorporating, where appropriate, trajectories for improvement.

3.2 The Trust will implement the Quality Strategy in accordance with the timescales in that plan, unless otherwise agreed with NHS Improvement.

3.3 The Trust will revise its CQC Action Plan to include any subsequent concerns raised by the CQC that NHS Improvement specifies should be addressed in the plan. If the Trust is required to update the CQC Action Plan under this sub-paragraph, all references in these undertakings to the CQC Action Plan will be to the CQC Action Plan as revised under this sub-paragraph.

3.4 The Trust will ensure that its oversight and assurance process in relation to the CQC Action Plan is robust.

3.5 The Trust will ensure an improvement plan is in place that addresses the need to learn from never events. The improvement plan will include timescales for delivery, measurements of success and have a robust governance process around it to ensure delivery.

3.6 The Trust will pursue its Quality Strategy with the aim of moving from a CQC rating of 'Requires Improvement' to a CQC rating of 'Good' and onto 'Outstanding'. The Trust will ensure there is robust monitoring and governance around the Quality Strategy to ensure effective and timely delivery.

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 Sustainability and Transformation 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 Programme management

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

6 Access

- 6.1 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.

7 Meetings and reports

- 7.1 The Trust will:
- 7.1.1 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; and
 - 7.1.2 provide such reports in relation to the matters covered by these undertakings as NHS Improvement may require.

Any failure to comply with the above undertakings may result in the NHS Improvement taking further formal action. This could include giving 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 the Trust)




Dated 7th November 2019

NHS IMPROVEMENT

Signed (~~Chair~~ of the Regional Support Group – Midlands and East)

Member



Dated 7/1/2020

