

## **ENFORCEMENT UNDERTAKINGS**

### **LICENSEE:**

**Nottinghamshire Healthcare NHS Foundation Trust**  
**Trust Headquarters**  
**Highbury Hospital**  
**Highbury Road**  
**Nottingham**  
**NG6 9DR**

### **BACKGROUND**

NHS England, on the basis of the grounds set out below, and having regard to its Enforcement Guidance, has decided to accept from the Licensee the enforcement undertakings specified below pursuant to its powers under section 106 of the Health and Social Care Act 2012 (“the Act”).

### **GROUNDINGS:**

#### **1. The Licence**

The Licensee is the holder of a licence granted under section 87 of the Act.

### **BREACHES:**

#### **2. Issues and need for action**

2.1 NHS England has reasonable grounds to suspect that the Licensee 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: NHS2(4)(a), NHS2(5)(a), (d), (g) and NHS2(6).

2.2. In particular:

##### **Quality of Care**

2.2.1 In June 2023, the Care Quality Commission (CQC) carried out an inspection of Rampton Hospital and rated it ‘inadequate’ (report published on 17 January 2024). In October 2023 a Regulation 28 Notice

of Decision was issued which required CQC oversight of admissions and an increase in staff trained in British Sign Language.

- 2.2.2 The Secretary of State commissioned a special review into the services provided by the Licensee under section 48 of the Health and Social Care Act 2008. The special review was originally split into three parts; parts 2 and 3 were published on 26 March 2024 and part 1 was published on 13 August 2024. When the August report was published it was labelled as 'part 2' and the original March reports were relabelled 'part 1'.
- 2.2.3 Part 1 of the special review found a number of failings in relation to Safety and Quality of Care across community mental health services and Rampton Hospital.
- 2.2.4 Part 2 of the special review outlined failings in care in relation to a serious homicide incident which is also subject to a separate independent homicide investigation.
- 2.2.5 There were 17 recommendations for the Licensee in part 1 of the review and 8 recommendations from part 2, making 25 in total.
- 2.2.6 In part 1, the CQC also referenced the inspection of inpatient wards, namely; Acute wards for adults of working age and psychiatric intensive care units, and Wards for older people with mental health problems. Both services were rated 'inadequate' (reports published 1 March 2024).

### **Leadership and Governance**

- 2.2.7 The CQC special review found that there were concerns in relation to leadership and governance, in particular;
  - 2.2.7.1 There have been a lot of changes in executive leadership in recent years, resulting in some loss of experience.
  - 2.2.7.2 Senior leaders did not appear to have clear oversight of the risks to quality and safety of care in services and had not acted with the required grip and pace to make rapid improvements.
  - 2.2.7.3 There were issues with incident reporting and the quality of investigations and a lack of engagement with inquest processes.
  - 2.2.7.4 There was some evidence of poor culture and behaviour, including bully and harassment and staff misconduct.

2.2.8 Similar concerns in relation to Leadership and Governance were outlined in the CQC inpatient inspection reports published in March 2024, where the Licensee was rated 'inadequate' for Well led in both reports.

### **Financial Performance**

2.2.12 The Licensee did not meet its 2023/24 financial plan and reported a year end deficit of £22m which exceeded its planned breakeven plan by £22m and it's H2 reset plan by £12.5m.

2.2.13 The Licensee has failed to develop a plan for 2024/25 which meets the NHS England requirement to break even. For 2024/25, there is financial deficit plan of £16.5 million which includes considerable risk and a Cost Improvement Programme (CIP) of £54m, equivalent to 7.7% of gross operating expenses.

2.3 These failings by the Licensee demonstrate a failure of governance arrangements including, in particular, failure to establish and implement effective board and committee structures and failure to establish and effectively implement systems or processes;

2.3.1 to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;

2.3.2 for effective financial decision-making, management and control;

2.3.3 to generate and monitor delivery of business plans (including any changes to such plans) and to receive internal and where appropriate external assurance on such plans and their delivery; and

2.3.4 ensure the matters relating to quality of care specified in condition NHS2(6) are complied with.

2.4 Need for action:

2.4.1 NHS England 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.

### **3. Appropriateness of Undertaking**

In considering the appropriateness of accepting in this case the undertakings set out below, NHS England has taken into account the matters set out in its Enforcement Guidance.

## UNDERTAKINGS

NHS England has agreed to accept, and the Licensee has agreed to give the following undertakings.

### 1. Quality

- 1.1. The Licensee is required to take all reasonable steps to address the concerns as identified in the CQC reports since 2023, including carrying out the actions set out in the reports in accordance with such timescales as determined by the CQC in relation to the required notices and enforcement actions such that, upon re-inspection by the CQC, the Licensee will no longer be found to be 'inadequate' in any of the CQC domains and will have made substantial progress against the recommendations in the special review and the inpatient reports.
- 1.2. The Licensee will keep delivery of the Integrated Improvement Plan (IIP) it has developed under continuous review and will update it as required. Where matters are identified which materially affect the Licensee's ability to deliver the plan, whether identified by the Licensee or another party, the Licensee will notify NHS England as soon as practicable and update and resubmit the affected plan(s) within a timeframe to be agreed with NHS England.
- 1.3 The Licensee will continue to submit a monthly Board-approved progress report until such date as specified by NHS England.
- 1.4 The Licensee will ensure it has sufficient capacity and capability to deliver the IIP within timescales to be agreed with NHS England. Where deemed by NHS England to be required, the Licensee will obtain external support from sources and according to a scope and timescale to be agreed with NHS England.
- 1.5 The Licensee will work with system partners to review and strengthen system governance with regards to Quality and Safety oversight in such timescales as agreed with NHS England.
- 1.6 The Licensee will take all other reasonable steps to deliver compliance with a set of improvement metrics which support the IIP, on a sustainable basis, within a timeline to be agreed with NHS England.

## **2. Special Review and Independent Homicide Investigation**

- 2.1 The Licensee will provide a separate monthly Board-approved progress report against the 25 recommendations set out in parts 1 and 2 of the special review report.
- 2.2 NHS England has commissioned an Independent Homicide Investigation in relation to VC and the Licensee should ensure that, following publication of the report, any recommendations are included in an updated IIP.

## **3. Leadership and governance**

- 3.1 The Licensee will;
  - 3.1.1 undertake a review of leadership against Well led criteria and develop a specific plan, within timescales to be agreed with NHS England, which demonstrates how the recommendations will be addressed.
  - 3.1.2 undertake a review of corporate and clinical governance and develop a specific plan, within timescales to be agreed with NHS England, which demonstrates how the recommendations will be addressed

## **4. Financial Plan**

- 4.1 The Licensee will take all reasonable steps to ensure delivery of the Licensee's financial plan for 2024/25 as set out in the IIP.
- 4.2 In delivering these actions, and others where required, the Licensee will ensure that it works with full transparency and co-operation with system partners, including both the ICB and NHS England commissioners, to deliver its contribution to the Nottingham and Nottinghamshire system plan for 2024/25 and 2025/26.

## **5. Funding Conditions and Spending Approvals**

- 5.1 Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Licensee under section 40 of the National Health Service Act 2006, the Licensee will comply with any terms and conditions which attach to the financing.
- 5.2 The Licensee will comply with any spending approvals processes that are deemed necessary by NHS England.

## **6. System oversight**

- 6.1 The Licensee will work with system partners and NHS England openly and collaboratively to ensure that all necessary information is available to provide robust system oversight on the quality and safety of services including progress and delivery against the IIP and other plans.

## **7. Improvement support**

- 7.1. The Licensee will co-operate and work with an Improvement Director to oversee and provide independent assurance to NHS England on the Licensee's delivery against its IIP.
- 7.2 To ensure that the plan is deliverable, significant resource and support and been provided by NHS England. The Licensee will fully engage with the bespoke expertise and capacity which is being provided.

## **8. Programme management**

- 8.1. The Licensee will implement 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 achievement of the undertakings and ensure appropriate mitigation; and
  - 8.2.3 hold individuals to account for the delivery of the undertakings.
- 8.3. The Licensee will provide, to NHS England, direct access to its advisors, programme leads, and the Licensee's Board members as needed in relation to matters covered by these undertakings.

## **9. Meetings and reports**

- 9.1. The Licensee will attend meetings or conference calls, at such times and places, and with such attendees, as may be required by NHS England.
- 9.2. The Licensee will provide such reports in relation to the matters covered by these undertakings as NHS England may require, and in the timescales that NHS England may require.

9.3 The Licensee will attend monthly Oversight and Assurance meetings with NHS England to discuss its progress in the required actions as set out in this document.

The undertakings set out above are without prejudice to the requirement on the Licensee to ensure that it is compliant with all the conditions of its licence, including any additional licence condition imposed under section 111 of the Act (for foundation trusts only) and those conditions relating to:

- compliance with the health care standards binding on the Licensee; and
- compliance with all requirements concerning quality of care.

Any failure to comply with the above undertakings will render the Licensee liable to further formal action by NHS England. This could include the imposition of discretionary requirements under section 105 of the Act in respect of the breach in respect of which the undertakings were given and/or revocation of the licence pursuant to section 89 of the Act.

Where NHS England is satisfied that the Licensee has given inaccurate, misleading or incomplete information in relation to the undertakings: (i) NHS England may treat the Licensee as having failed to comply with the undertakings; and (ii) if NHS England decides so to treat the Licensee, NHS England must by notice revoke any compliance certificate given to the Licensee in respect of compliance with the relevant undertakings.

## **THE LICENSEE**

Ifti Majid, Chief Executive Officer- Nottinghamshire Healthcare Foundation Trust



Date: 28/11/ 2024

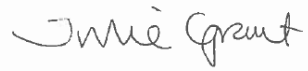
Paul Devlin, Chair- Nottinghamshire Healthcare Foundation Trust



Date: 28/11/ 2024

## **NHS ENGLAND**

Signed

A handwritten signature in black ink that reads "Julie Grant". The signature is written in a cursive style with a large initial 'J' and 'G'.

Julie Grant

Director of System Co-ordination and Oversight – Midlands

Dated 29 /11 /2024