ENFORCEMENT UNDERTAKINGS

NHS INTEGRATED CARE BOARD:

NHS Greater Manchester Integrated Care Board (the ICB)
4th Floor
3 Piccadilly Place
Manchester
M1 3BN

DECISION

NHS England, on the basis of the grounds set out below, and having regard to its Enforcement Guidance, has decided to accept from the ICB the enforcement undertakings specified below in connection with NHS England's functions under the National Health Service Act 2006, as amended (the NHS Act 2006).

GROUNDS

NHS England has reasonable grounds to suspect that the ICB is failing or has failed to discharge one or more of its functions properly, or that there is a significant risk that it will fail to do so, in particular, its functions under sections 3, 3A, 14Z33, 14Z34, 223L and 223M of the NHS Act 2006.

1. Future Operating Model and Governance Arrangements

1.1. In particular:

1.1.1. There has been insufficient progress against the following two areas of the agreed Segment 3 Leadership and Capability Exit Criteria;

1.1.2. Demonstration that there are robust controls and processes in place, which are overseen through appropriate governance arrangements and board level ownership; and

1.1.3. Established quality governance assurance mechanisms, to oversee the constituent segment 3 organisations, and can demonstrate support has been provided to them to drive improvement.

1.2. There is a lack of assurance in relation to implementing the Carnall Farrar Review findings.

2. Financial Planning

2.1. Each integrated care board (including, in this case, the ICB) and its partner NHS trusts and NHS foundation trusts (partner trusts) are subject to a duty to seek to achieve joint financial objectives set by NHS England (s223L NHS Act 2006). Furthermore, each integrated care board and its partner trusts have a duty to act with a view to ensuring that their combined resource use does not exceed the capital and revenue resource limits set

by NHS England (s223M NHS Act 2006). Each integrated care board must also exercise its functions effectively, efficiently and economically (s14Z33 NHS Act 2006).

2.2. The ICB is failing or has failed to discharge those duties properly, in particular:

2.1.1. The Greater Manchester Integrated Care System's (ICS)[1] delivered a deficit of c.£180m for 2023/24 (subject to audit), compared to the original plan to achieve break even (excluding any impact of industrial action from December 2023 onwards).

2.1.2. The ICS continues to have a significant and ongoing underlying deficit of concern, the precise value of which is yet to be determined.

2.1.3. The ICB demonstrates a failure of financial governance arrangements and financial management, for example in the original break-even plan there was a £130m System CIP value, with no management or governance arrangements or mitigations to its delivery.

2.1.4. Limited assurance in relation to implementing the opportunities and recommendations referenced in the PWC Diagnostic Review at the end of 2022/23. The review was to identify the drivers to their underlying deficit and options to mitigate.

3. Performance

3.1. In particular:

3.1.1. Elective recovery and the ICS's long wait position is in the lowest quartile of the NHS Oversight Framework (NOF) for 65 week waits and activity growth.

3.1.2. The ICS remains in Tier 1 for urgent and emergency care (UEC) delivery, being in the lowest quartile for A&E 4-hour performance in the NOF and deteriorating for patients not meeting criteria to reside.

3.1.3. The ICS's cancer backlog position and cancer recovery 62 day backlog is in the lower end of the interquartile range of the NOF, but above the national position.

3.1.4. Diagnostic activity waiting time is not meeting the 6-week performance target of 5% with variation on delivery across the ICS area.

3.1.5. Adult inpatients with a learning disability and or autism is above the national value per 1,000,000 and is in the lowest quartile of the NOF.

3.1.6. The ICS is the lowest performing with regard to inappropriate adult acute mental health out of area placement in the national oversight framework.

4. Quality of Care, access and outcomes and Leadership and Capability

[1] References in these undertakings to the ICS are to the ICB and its partner trusts.

4.1. The ICB has not demonstrated an adequate understanding in relation to the ICB holding the NHS trusts and NHS foundation trusts from which it commissions services, and particularly (but not solely) the acute trusts at NOF 3 segmentation, to account in addressing quality concerns, including in relation to quality assurance, quality escalation, quality improvement and contract management.

4.2. The ICB has not demonstrated embedded or sustainable oversight of place for delegated quality assurance functions, including escalating deficits back through the ICB quality reporting mechanism. The lack of action the ICB is taking when trusts are not discharging their quality functions robustly, such as failing to escalate NHS trusts of concern as per the National Quality Board – National Guidance on Quality Risk Response and Escalation in Integrated Care Systems.

4.3. The ICB has not taken appropriate action to monitor the disaggregation of services, and associated risk following the dissolution of Pennine Acute Hospitals Trust (PAHT).

4.4. Lack of progress in the ICB duty to bring improvement in the quality of services and to deliver on safeguarding statutory responsibilities, such as ensuring the ICS having capacity and capability in relation to delivery of the Safeguarding Accountability and Assurance and Framework (SAAF), particularly workforce.

4.5. Deliver on commissioner responsibilities of the Serious Incident Framework, specifically quality assuring delivery of recommendations and oversight of delivery of recommendations (serious incidents, mental health homicides).

4.6. Ensure the ICB has Designated Body status, if appropriate, as per The Medical Profession (Responsible Officers) Regulations 2010.

4.7. Lack of progress in delivering a delegated complaints function that complies with standard complaints regulations and NHS complaints policies, and failure to have an appropriate recovery plan.

NEED FOR ACTION

NHS England believes that the action which the ICB has undertaken to take pursuant to these undertakings, is action to secure that the failure to discharge its functions properly does not occur, continue or recur.

UNDERTAKINGS

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

1. Future Operating Model and Governance Arrangements

1.1. The Single Improvement Plan will address the recommendations within the Leadership and Governance Review conducted by Carnell Farrar.

1.2. The ICB will demonstrate robust provider oversight assurance.

2. Financial Planning

2.1. By 31 July 2024, or by such date as agreed with NHS England, the ICB will ensure that audited financial statements for 2023/24 will show that the ICS will achieve no worse than a £180m deficit.

2.2. By 31 July 2024, or by such date as agreed with NHS England, the ICB Board will submit to NHS England an ICS financial plan (the Financial Plan) (as part of a single improvement plan which also covers the performance and quality of care elements below) – (the Improvement Plan) which is acceptable to NHS England. The ICB will ensure the Financial Plan demonstrates both a significant ambition to achieve an in-year financial statutory break-even and improves the ICS' underlying financial position, measured by:

2.2.1. bottom line performance;

2.2.2. recurrent CIP delivery;

2.2.3. run rates for key income and expenditure categories; and

2.2.4. whole time equivalent (WTE) movements.

2.3. The ICB will demonstrate an effective governance arrangement across its partner trusts in submitting this plan, such as engagement with appropriate stakeholders, including NHS providers in the development and sign off of the plan.

2.4. The ICB will agree any amendments to the Financial Plan with NHS England.

2.5. The ICB will ensure delivery of the Financial Plan by timescales to be agreed with NHS England, and the actions in the Financial Plan will be on track and measured at the end of each quarter, subject only to uncontrollable factors as agreed by NHS England, including but not limited to any industrial action.

2.6. By 31 July 2024, or by such date as agreed with NHS England, the ICB will have resolved all historical commissioning decisions (such as the Trauma Unit at the Northern Care Alliance NHS Foundation Trust) and will make clear to all potential health care providers any commissioning decisions for the financial year 2024/25. The ICB will ensure any such decisions made will be affordable within the Financial Plan. The ICB will provide to NHS England a list of the historical commissioning which have been identified, and the resolution for each.

2.7. By 31 July 2024, or by such date as agreed with NHS England, the ICB will have in place robust and sustainable oversight arrangements in respect of all trusts and foundation trusts which will include, but not be limited to, regular scrutiny and triangulation of key aspects of performance (finance, activity, workforce and quality) including executive engagement and effective action tracking and follow up. Oversight will be led by the ICB without reliance on consultancy support or NHS England.

2.8. The ICB will develop a medium term financial plan by a date to be agreed with NHS England which demonstrates in detail how the ICS will be entering the 2026/27 planning round in an underlying break-even financial position.

2.9. The overarching ICB Improvement Plan should address opportunities and recommendations referenced in the PWC Diagnostic Review.

NHS England

3. Performance

3.1. By 31 July 2024, or by such date as agreed with NHS England, the ICB will submit to NHS England a credible ICS performance plan (the Performance Plan) (as part of a single improvement plan which also covers the finance and quality of care elements) – (the Improvement Plan) which is acceptable to NHS England and demonstrates delivery against operational plan objectives, including processes in place to monitor delivery, such as:

3.1.1. a significant improvement in performance and backlog reduction for elective care services across the ICS, which includes 2024/25 targets for elective activity, 78 week waits and 65 week waits, also agreed plans for 2024/25 for referral to treatment (RTT) requirements.

3.1.2. a sustained and improving trajectory for urgent and emergency care (UEC), in terms of 4-hour, 12-hour and 14 days plus length of stay performance.

3.1.3. a sustained position for Category 2 ambulance times.

3.1.4. a significant improvement in performance and backlog reduction for cancer services in Greater Manchester, which includes agreed plans for 2024/25.

3.1.5. a significant improvement in diagnostic activity waiting time to achieve the 10% target in 2024/25.

3.1.6. a significant improvement for inappropriate acute mental health out of area placements in 2024/25. Plus provider collaborative sign off of plan.

3.1.7. significant improvement for adult in patients with a learning disability or autism to come in line with the national value per 1,000,000 in 2024/25.

3.2. The ICB will agree any amendments to the Performance Plan with NHS England.

3.3. The ICB will demonstrate an effective governance arrangement across its partner trusts in submitting this plan, such as engagement with appropriate stakeholders, including NHS providers in the development and sign off of the plan.

4. Quality of Care, Access and Outcomes and Leadership and Capability

4.1. By 31 July 2024, or by such date as agreed with NHS England, the ICB will submit to NHS England an ICS quality improvement plan (the Quality Improvement Plan) (as part of a single improvement plan which also covers the performance and finance elements below) – (the Improvement Plan)) which is acceptable to NHS England. The ICB will ensure the Quality Improvement Plan brings together the ICB, trusts and additional system wide recovery initiatives and includes:

4.1.1. Demonstration of the ICB's ability to ensure NHS trusts and foundation trusts meet the key milestones, including that it has sufficient executive capacity to oversee delivery the plan.

4.1.2. Demonstration of the establishment of quality governance assurance and oversight mechanisms, to assess and manage any risk associated with the disaggregation of services following the dissolution of PAHT. This should include as a minimum, a rapid quality review with commissioners and

regulators to assess any current risk and also review and establish new post transaction risks.

4.1.3. Demonstration of dedicated oversight arrangements to monitor the Quality Improvement Plan and sufficiently resourced delivery mechanisms (capacity and capability) to ensure improvement, including strengthened analytical support to strengthen evidence based decision making.

4.1.4. Demonstration to the System Improvement Board (SIB) of delivery of a clear recovery plan which aligns with the NHS England Complaints Policy and complaint regulations.

4.1.5. Demonstration to the SIB of delivery of a clear recovery plan which aligns with the SAAF.

4.1.6. Demonstration to the SIB, how the ICS is ensuring learning from Regulation 28 PFDs, serious incidents, patient safety investigations, mental health homicides and independent investigations are embedded into place to prevent recurrence.

4.1.7. Presentation, on a monthly basis, a summary of progress with implementation of the ICB's overarching Quality Improvement Plan to the SIB, until the level of assurance allows further review of the schedule for presentation, or the undertakings are removed for as long as required by NHS England.

4.1.8. The ICB becoming a Designated Body when the ICB has a prescribed connection with at least one doctor without a prescribed connection elsewhere. Demonstration of a robust process for meeting requirements of The Medical Profession (Responsible Officer) Regulations 2010.

4.2. The ICB will demonstrate progress against the Quality Improvement Plan in line with the agreed timescales through their ICB internal governance arrangements with place based leads and NHS England. The ICB will agree any amendments to the Quality Improvement Plan with NHS England.

5. Programme Management

5.1. The ICB 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 ICB 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.

5.3. The ICB will provide to NHS England direct access to its advisors, programme leads, and board members as needed in relation to the matters covered by these undertakings.

5.4. The ICB will ensure it has sufficient capacity and capability to deliver the improvement plans referenced above. Where deemed by NHS England to be necessary, the ICB

will obtain external support from sources and according to a scope and timescale to be agreed with NHS England.

6. Meetings and Reports

6.1. The ICB will provide regular reports to NHS England on its progress in complying with the undertakings set out above.

6.2. The ICB will attend SIB meetings or, if NHS England stipulates, conference calls, at such times and places, and with such attendees, as may be required by NHS England. The SIB meetings will take place once a month unless NHS England otherwise stipulates, at a time and place to be specified by NHS England and with attendees specified by NHS England.

6.3. Upon request, the ICB will provide NHS England with the evidence, reports or other information relied on by its Board in relation to assessing its progress in delivering these undertakings.

6.4 The ICB will comply with any additional reporting or information requests made by NHS England.

The undertakings set out above are without prejudice to the requirement on the ICB to ensure that it meets its statutory duties.

Any failure to comply with the above undertakings may render the ICB liable to further formal action by NHS England. This could include directions given to the ICB under section 14Z61 of the NHS Act 2006.

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

NHS GREATER MANCHESTER INTEGRATED CARE BOARD

Signed

RICHARD LEESE

[NAME]

Chair or Chief Executive of NHS Greater Manchester Integrated Care Board

Dated 17/7/24

NHS ENGLAND

Signed

[NAME] Michael Gregory

North West Regional Director and Chair of the Regional Support Group

Dated 23 July 2024