

ENFORCEMENT UNDERTAKINGS NOTICE

ICB:

Hampshire and Isle of Wight Integrated Care Board ("the ICB")
Leigh Road
Eastleigh
SO50 9SJ

DECISION:

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

GROUND:

NHS England has reasonable grounds to suspect that the ICB is failing or has failed to discharge one or more of its functions, or that there is a significant risk that it will fail to do so, in particular its functions under sections 14Z23, 223L and 223M of the NHS Act 2006.

- 1.1. The Hampshire & Isle of Wight system collectively has demonstrated declining productivity and material under-delivery of efficiency plans in 2022/23 despite interventions and financial recovery initiatives by ICB and providers aimed at addressing this. The system has made relatively limited progress in implementing new integrated models of care to reduce unnecessary acute admissions, and to reduce the associated financial cost of this. There has been a significant growth in workforce over the last three years but this is not financially affordable and has not led to a corresponding improvement in productivity as measured by low and deteriorating cost weighted activity growth. There has been progress with elective recovery but at an unaffordable cost, including significant expenditure with Independent Sector providers and limited collaboration between all NHS providers.
- 1.2. In April 2023, the ICB forecast a total system deficit for 2023/24 of £118 million, making it a material outlier with most other ICBs.
- 1.3. In addition, since 1 July 2022, each integrated care board (including, in this case, the ICB) and its partner Trusts have been subject to a duty to seek to achieve joint financial objectives set by NHS England (s223L NHS Act 2006). Further, 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 of the NHS Act 2006). Each integrated care board must also exercise its functions effectively, efficiently and economically (s14Z33 of the NHS Act 2006).

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 does not occur, continue or recur.

UNDERTAKINGS:

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

2. Financial Governance

2.1 Recovery Plan

2.1.1 The ICB will work with its partner NHS trusts and NHS foundation trusts (HIOW system providers) to develop a single Recovery Plan that brings together the ICB, Trusts and additional system wide recovery initiatives. It is likely to include, but is not limited to:

- 2.1.1.1 Actions to address the key financial issues with a high-level milestone plan for the system to return the system to a breakeven financial position.
- 2.1.1.2 Details of how the system will deploy sufficient resources to ensure implementation of the Recovery Plan.
- 2.1.1.3 A description of systems and processes the system will use to gain assurance on the delivery of the Recovery Plan with governance arrangements for approval and delivery of the Recovery Plan.
- 2.1.1.4 Establishing immediately necessary 'grip and control' actions, followed by transformational initiatives and options such as financially sustainable clinical services, clinical support services and corporate services. Timescales to be agreed with NHS England.

2.1.2 When developing the Recovery Plan, the ICB will, working with its system providers, engage effectively with key stakeholders and will ensure their views are reflected appropriately in the Recovery Plan.

2.1.3 The ICB will, working with its system providers, ensure that the system demonstrates to NHS England a period of successful implementation of the Recovery Plan and assurance of continued focus, capability and capacity to sustainably maintain financial recovery and deliver the Recovery Plan.

2.1.4 The ICB will, working with the system providers, keep the Recovery Plan under continuous review and will update it as required. Any proposed updates will be subject to the review and approval by NHS England.

2.1.5 The ICB will make reasonable efforts to provide whole system leadership, enabling and ensuring accountability for delivery of the Plan.

2.2 System Improvement Director and NHS England team

2.2.1 The ICB will, along with its system providers, co-operate and work with the relevant System Improvement Director, as and when appointed by NHS England to oversee and provide independent assurance to NHS England on the ICB's actions to deliver its financial recovery, including the Recovery Plan. The ICB will similarly cooperate with the wider NHS England team.

2.2.2 The ICB will provide the System Improvement Director and the NHS England team supporting them with full access to the ICB's key personnel, meetings, resources, Board members, advisers and information, as well as any other members of its staff considered necessary by NHS England.

3 Reporting

3.1 The ICB will provide regular reports to NHS England on its progress in complying with the undertakings set out above and will attend meetings, or, if NHS England stipulates, conference calls, as required, to discuss its progress in meeting those undertakings. These 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.

3.2 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.

3.3 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 must by notice revoke any compliance certificate given to the ICB in respect of compliance with the relevant undertakings.

ICB



Signed (Maggie Maclsaac, Chief Executive of Hampshire and Isle of Wight Integrated Care Board)

Dated: 4 September 2023

NHS ENGLAND



Signed (SE Regional Director)

Dated: 7 September 2023