

## **ENFORCEMENT UNDERTAKINGS**

### **LICENSEE:**

Countess of Chester NHS Foundation Trust (“the Licensee”)  
The Countess Of Chester Health Park  
Liverpool Road  
Chester  
Cheshire  
CH2 1UL

### **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 Licensee the enforcement undertakings specified below pursuant to its powers under section 106 of the Health and Social Care Act 2012 (“the Act”).

The undertakings in this document supersede the undertakings previously agreed on 31 January 2025, which will now cease to have effect.

### **GROUNDS**

#### **1. License**

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

#### **2. Breaches**

2.1 NHS England has reasonable grounds to suspect that the Licensee has provided and is providing health care services for the purposes of the NHS in breach of the following conditions of its licence:

<b>2023 Licence</b>	<b>Summary of condition</b>
NHS2(5)(a),(b),(c),(d), (f) & (g)	<p>The Licensee shall establish and effectively implement systems and/or processes:</p> <p>(a) to ensure compliance with the Licensee’s duty to operate efficiently, economically and effectively;</p>

	<p>(b) for timely and effective scrutiny and oversight by the Board of the Licensee's operations;</p> <p>c) to ensure compliance with health care standards binding on the Licensee including but not restricted to standards specified by the Secretary of State, the Care Quality Commission, NHS England and statutory regulators of health care professions;</p> <p>(d) for effective financial decision-making, management and control (including but not restricted to appropriate systems and/or processes to ensure the Licensee's ability to continue as a going concern);</p> <p>(f) to identify and manage (including but not restricted to manage through forward plans) material risks to compliance with the conditions of its licence;</p> <p>(g) 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.</p>
NHS2(6)(a) to (f)	<p>The systems and/or processes referred to in paragraph 5 should include but not be restricted to systems and/or processes to ensure:</p> <p>(a) that there is sufficient capability at Board level to provide effective organisational leadership on the quality of care provided;</p> <p>(b) that the Board's planning and decision-making processes take timely and appropriate account of quality of care considerations;</p> <p>(c) the collection of accurate, comprehensive, timely and up to date information on quality of care;</p> <p>(d) that the Board receives and takes into account accurate, comprehensive, timely and up to date information on quality of care;</p> <p>((f) that there is clear accountability for quality of care throughout the Licensee's organisation including but not restricted to systems and/or processes for escalating and</p>

	resolving quality issues including escalating them to the Board where appropriate.
CoS3	The Licensee shall at all times adopt and apply appropriate systems and standards of corporate governance and financial management.

### 3. Financial Sustainability and Governance

#### 3.1 In particular:

- 3.1.1 the Licensee reported circa (c.) £23.6m deficit (excluding deficit support funding (DSF)) for the financial year (FY) 24/25. The outturn was in-line with plan.
- 3.1.2 the Licensee had a £19.8m Cost Improvement Programme (CIP) Plan in FY24/25 with a 100% recurrency target. The Licensee delivered £11.9m CIP recurrently in FY24/25, leaving a CIP gap of £7.9m.
- 3.1.3 the exit underlying position of the Licensee at 31 March 2025 was reported as a £33.2m deficit.

3.2 The PricewaterhouseCoopers FY25/26 Rapid Financial Diagnostic carried out across the Cheshire and Merseyside Integrated Care System in June 2025, highlighted the following financial risks at the Licensee:

- 3.2.1 run -rate reductions are required across the organisation to support delivery of the FY25/26 plan. These reductions have been profiled in plans and will be monitored through routine performance reporting.
- 3.2.2 the Licensee has a significant CIP target in FY25/26 and this will require a material increase in delivery from the prior year.
- 3.2.3 inflationary pressures have typically been higher than national estimates, which typically manifests as an in-year mitigation for the Licensee to offset.
- 3.2.4 costs associated with the public enquiry are assumed to be funded as they were in FY24/25. However, if this is not the case, there is a potential material risk to the position.

3.3 The matters set out above demonstrate a failure of financial governance arrangements and financial management by the Licensee, including, in particular:

- 3.3.1 a failure by the Licensee to adopt and apply systems and standards of corporate governance and of financial management which reasonably would be regarded as:

- (a) suitable for a provider of the Commissioner Requested Services provided by the Licensee, and
  - (b) providing reasonable safeguards against the risk of the Licensee being unable to carry on as a going concern.
- 3.3.2 a failure to establish and effectively implement systems and/or processes:
- (a) to ensure compliance with the Licensee's duty to operate efficiently, economically, and effectively;
  - (b) for effective financial decision-making, management, and control (including but not restricted to appropriate systems and/or processes to ensure the Licensee's ability to continue as a going concern); and
  - (c) to identify and manage material risks to compliance with the conditions of its licence including through development and delivery of forward plans; and
  - (d) to ensure that it has in place personnel on the Board, reporting to the Board and within the rest of the Licensee's organisation who are sufficient in number and appropriately qualified to ensure compliance with the licence conditions.

#### 4. Performance

##### 4.1 In particular:

4.1.1 following an unannounced inspection of urgent and emergency care (UEC) services at the Licensee between October and November 2023 by the Care Quality Commission (CQC), The Trust was given a rating of 'inadequate' for the provision of urgent and emergency care (UEC) services. This rating was given across three of the five domains; 'safe', 'effective' and 'responsive'.

4.1.2 the CQC noted that patients attending the Emergency Department (ED) at the Licensee could not always access the service when they needed it and there were significant delays in receiving the right care promptly. Waiting times from referral to treatment and arrangements to admit, treat and discharge patients were not in line with national standards.

4.1.3 the Licensee's A&E performance for March 2025 was 59.4% (significantly below the national ambition for 24/25 of achieving 78%). Whilst June 2025 A&E performance for the Licensee has seen a marginal improvement (up to 63.7%), it is still significantly below the national ambition of 78% for March 2026.

4.1.4 similarly, the Licensee's performance for percentage of patients spending over 12 hours in ED currently sits at just over 22% (i.e. one in every five patients is likely to experience a wait in ED of over 12 hours). This is the fourth highest

percentage of all North West hospitals and double the national ambition for 2025/26 of less than 10% of patients spending over 12 hours in ED.

4.1.5 the Licensee is in the lowest percentile nationally for mental health waits above 12 hours . 42% of adult mental health patient attendances wait 12 hours or more in the ED.

The matters set out above demonstrate a failure of governance arrangements including, in particular, failure to establish and effectively implement systems or processes:

- (a) to ensure compliance with the Licensee's duty to operate efficiently, economically and effectively;
- (b) for timely and effective scrutiny and oversight by the Board of the Licensee's operations; and
- (c) to ensure compliance with healthcare standards binding on the Licensee.

## 5. Quality

### 5.1 In particular:

5.1.1 there is a concern that the patients attending with mental health care needs are not receiving appropriate and timely care within the ED setting at the Licensee.

5.1.2 the CQC issued a section 29A warning notice (of the Health and Social Care Act 2008) on 2 April 2025 in relation to their assessment of UEC. The notice was issued around a non- consistent approach to assessing and managing the risk to service users and was found that the governance systems were not effective to ensure action taken to address ongoing concerns are sustained and embedded.

### 5.2 The matters set out above demonstrate a failure of quality governance arrangements by the Licensee, including, in particular:

5.2.1 that there is clear accountability for quality of care throughout the Licensee's organisation including but not restricted to systems and/or processes for escalating and resolving quality issues including escalating them to the Board where appropriate.

## 6. Need for Action

6.1 NHS England believes that the action, which the Licensee has undertaken to take pursuant to these undertakings, is action to secure that the breaches in question do not continue or recur.

**7. Appropriateness of Undertakings**

7.1 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, pursuant to section 106 of the Act.

**1. Financial planning**

- 1.1 The Licensee will deliver the 2025/26 Financial Plan, as agreed with NHS England.
- 1.2 The Licensee will deliver a quarter-on-quarter run rate improvement from Quarter 3 2025/26 and throughout 2025/26.
- 1.3 The Licensee will comply with all documented actions required by NHS England through the oversight meetings, led by NHS England or its representative.

**2. Funding conditions and spending approvals**

- 2.1 Where interim support financing or planned term support financing is provided by the Secretary of State for Health to the Licensee pursuant to section 40 of the National Health Service Act 2006, the Licensee will comply with any terms and conditions which attach to the financing.
- 2.2 The Licensee will comply with any reporting requests made by NHS England in relation to any financing to be provided to the Licensee by the Secretary of State for Health pursuant to section 40 of the NHS Act 2006.
- 2.3 The Licensee will comply with any spending approvals processes that are deemed necessary by NHS England.

**3. Performance**

- 3.1 The Licensee will take all reasonable steps within its control to:

- 3.1.1 improve waiting times for patients attending A&E at Countess of Chester Hospital, with the ambition to achieve a minimum of 78% A&E performance by March 2026.
- 3.1.2 as a minimum, the Licensee will reduce the proportion of patients spending over 12 hours in ED in 2025/26 compared to 2024/25, with the aim of reducing to as close as possible to 10% or lower by March 2026, with an expected year on year improvement.
- 3.1.3 The Licensee will ensure that there is a robust action plan in place to address 12 hour waits in the ED. Timescales are as agreed in the overarching Emergency Department Improvement Plan.

4. Quality

- 4.1 The Licensee will ensure that by a date to be agreed with NHS England:

- 4.1.1 there is an overarching improvement plan to address the performance and quality of care for mental health wait (s) in the ED, within a timeframe agreed by NHS England.
  - 4.1.2 there is an overarching CQC action plan to address the section 29 A warning notice concerns and has effective oversight and assurance processes in place to monitor improvement.

5. Reporting

- 5.1 The Licensee will provide regular reports to NHS England through the oversight meetings led by NHS England or its representative, on its progress in complying with the undertakings set out above.
- 5.2 The Licensee will attend monthly oversight meetings, or, if NHS England stipulates, conference calls, as required, to discuss its progress in meeting those undertakings. Oversight meetings will be led by NHS England or its representative, with attendees specified by NHS England.
- 5.3 The Licensee will provide NHS England with the assurance relied on by its Board in relation to its progress in delivering these undertakings, upon request.
- 5.4 The Licensee 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 Licensee to ensure that it is compliant with all the conditions of its licence, including any additional licence condition imposed under the Act 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.

**LICENSEE**



Signed (Chair or Chief Executive of Licensee)

Dated: 28 November 2025

**NHS ENGLAND**



**Louise Shepherd**

Signed (North West Regional Director and Chair of the Regional Support Group)

Dated: 28 November 2025