

ENFORCEMENT UNDERTAKINGS

LICENSEE:

Medway NHS Foundation Trust
Medway Maritime Hospital
Windmill Road
Gillingham
Kent
NE7 5NY

UNDERTAKINGS

NHS Improvement has agreed to accept and the Licensee has agreed to give the following undertakings, pursuant to section 106 of the Act:

1. Financial Management

- 1.1.1. The Licensee will take all reasonable actions to reduce the current deficit and achieve financial sustainability.
- 1.2. In meeting the requirements of paragraph 1.1., the Licensee will:
 - 1.2.1. By a date to be agreed with NHS Improvement, develop and submit to NHS Improvement a medium-term system financial recovery plan (“MTSFRP”) setting out realistic actions to stabilise and improve the Licensee’s financial position, which will include actions to support and implement the plan for the next 5 years;
 - 1.2.2. Ensure that the MTSFRP is refreshed and maintained to adhere to the latest available NHS planning guidance;
 - 1.2.3. Ensure that the plan addresses the underlying drivers of the deficit;
 - 1.2.4. In developing and implementing the MTSFRP, engage with its system partners and ensure that the plan is supported by underpinning demand and capacity modelling and aligned with clinical, workforce, estates and local system partners’ transformation plans;
 - 1.2.5. The Licensee will deliver the MTSFRP in accordance with the timescale outlined in that plan, or such dates to be agreed with NHS Improvement;
 - 1.2.6. Provide to NHS Improvement on a monthly basis, or at such frequency as NHS Improvement specifies, an accurate 13 week rolling cash flow split into capital and revenue spend.

2. Distressed Financing

- 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 NHS 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 Improvement 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. Where the Licensee receives payments from the Sustainability and Transformation Fund, the Licensee will comply with any terms or conditions which attach to the payments.
- 2.4. The Licensee will comply with any spending approvals processes that are deemed necessary by NHS Improvement.

3. Quality of Care

- 3.1. The Licensee will take all reasonable steps to rectify the concerns which are set out in the CQC reports dated 17 March 2017 and 26 July 2018, such that (by a date to be agreed with NHS Improvement) the Licensee will:
 - 3.1.1. Within the timeframe required by the CQC, finalise and submit to the CQC and to NHS Improvement a plan setting out the steps which it will take to comply with paragraph 3.1. above, including key milestones and timescales (the “Quality Improvement Plan”);
 - 3.1.2. Ensure that the Quality Improvement Plan reflects the Licensee’s clinical strategy;
 - 3.1.3. Ensure that the Quality Improvement Plan includes a strategy on how the Licensee will work with system partners to resolve and improve reporting issues in relation to mortality;
 - 3.1.4. Ensure that the Quality Improvement Plan addresses how the Licensee will improve patient experience;
 - 3.1.5. Ensure that the Quality Improvement Plan addresses a clinical assessment and evaluation of risk and governance regarding the quality impact of CIPs;
 - 3.1.6. Provide to NHS Improvement on a monthly basis, progress updates on the required actions set out in the CQC report.

4. Operational Performance

- 4.1. The Licensee will take all reasonable steps to recover performance against the constitutional operational performance standards for A&E, RTT, cancer and diagnostics in a sustainable manner.
- 4.2. In meeting the requirements of paragraph 4.1, the Licensee will demonstrate that it can deliver the performance trajectories submitted in its Annual Operational Plan.

5. Strategic Workforce Planning

- 5.1. The Licensee will develop an updated workforce strategy (“the Workforce Plan”) linked to its objectives and taking into account clinical and quality strategies to include, but not limited to, medical, nursing, AHP and non-clinical workforce recruitment and retention strategies, workforce productivity, approaches to job planning and clinical safety. The Workforce Plan will include an implementation plan and will be agreed by the Board, which will have oversight of delivery.
- 5.2. In developing and implementing the Workforce Plan, the Licensee will ensure that the plan aligns to local and wider system partners’ workforce transformation plans.

6. Development and Delivery of Plans

- 6.1. The Licensee will ensure that the Governance Plan, Quality Improvement Plan, Financial Recovery Plan, Annual Operational Plan and Workforce Plan (together, the “Plans”) are developed and delivered in a robust and coherent manner which enables the Licensee to meet the requirements of paragraphs 1.1, 2.1, 3.1, 4.1 and 5.1.

- 6.2. In meeting the requirements of paragraph 6.1 the Licensee will ensure that the Plans:
- 6.2.1. Form a single, coherent and integrated approach to addressing the challenges facing the Licensee, together with the Licensee's other key plans;
 - 6.2.2. Include the actions required to meet the requirements of paragraphs 2.1, 3.1, 4.1 and 5.1, with appropriate timescales, resourcing and clear accountabilities to clinical and non-clinical action owners;
 - 6.2.3. Describe the key risks to meeting the requirements of paragraphs 2.1, 3.1, 4.1 and 5.1 and mitigating actions being taken;
 - 6.2.4. Describe how the Licensee will assess progress, including the measures to be used; and
 - 6.2.5. Are submitted by 4 January 2019, or as otherwise agreed by NHS Improvement, for discussion and agreement with NHS Improvement.

7. Sustainability

- 7.1. The Licensee will cooperate with the strategic options appraisal review to be undertaken by NHS Improvement.
- 7.2. In light of the findings of the review, the Licensee will take all reasonable steps to make appropriate strategic plans for the medium to long term sustainability of the services provided by the Licensee, working collaboratively with its system partners.

8. Corporate and Clinical Governance

- 8.1. The Licensee will take all reasonable steps (including but not limited to the actions in paragraphs 8.2 below) to ensure that it has appropriate and integrated corporate and clinical governance structures and processes in place, which would be reasonably regarded as appropriate for the supplier of a health care service in the UK.
- 8.2. In meeting the requirements of paragraph 8.1. the Licensee will:
 - 8.2.1. Consolidate the findings of the GE Finnermore Well-Led Review dated 15 June 2017 and the CQC Well-Led Letter dated 17 May 2018 into a comprehensive plan for improving the Licensee's principles, systems and standards of governance ("the Governance Plan"), to be agreed by the Board and NHS Improvement;
 - 8.2.2. In providing the plan, demonstrate (using measurable KPIs and setting out milestones) that it can deliver the plan;
 - 8.2.3. Take all reasonable steps to implement the Governance Plan;
 - 8.2.4. The Licensee will monitor the capacity, capability and effectiveness of the Board and clinical leadership and will notify NHS Improvement of any material changes or intervening events which present a significant risk to the sustainability of the same.

9. Programme Management

- 9.1. The Licensee will implement sufficient programme management and governance arrangements to enable delivery of these undertakings.
- 9.2. Such programme management and governance arrangements must enable the Board to:

- 9.2.1. obtain clear oversight over the progress in delivering the undertakings;
- 9.2.2. obtain an understanding of any risks to the successful achievement of the undertakings and ensure appropriate mitigation of any such risks; and
- 9.2.3. hold individuals to account for the delivery of the undertakings.

10. Improvement Director

- 10.1. The Licensee will cooperate with any Improvement Director appointed by NHS Improvement to oversee and support the Licensee's delivery of these undertakings, including taking all reasonable steps to promptly provide the Improvement Director with the information required to carry out their role.

11. General

- 11.1. The Licensee will co-operate fully with NHS Improvement, health sector stakeholders (including system partners) and any external agencies or individuals appointed by NHSI or the Licensee's commissioners to work with or support the Licensee.
- 11.2. The Licensee will provide regular reports to NHS Improvement on its progress in meeting these undertakings, including reporting against the KPIs (as may be agreed by NHS Improvement) in the Plans and will attend meetings or, if NHS Improvement stipulates, conference calls, to discuss its progress in meeting these undertakings. These meetings shall take place once a month unless NHS Improvement otherwise stipulates, at a time and place to be specified by NHS Improvement and with attendees specified by NHS Improvement.
- 11.3. The Licensee will keep the Plans and their delivery under review and make any necessary amendments. Where matters are identified which materially affect the Licensee's ability to meet the requirements of these undertakings, whether identified by the Licensee or another party, the Licensee will notify NHS Improvement as soon as practicable ascertaining what it has been unable to deliver and providing a plan of how it will deliver outstanding parts of the Plans. If requested by NHS Improvement, the Licensee will update and resubmit some or all of the Plans within a timeframe to be agreed with NHS Improvement.
- 11.4. The Licensee will comply with all additional relevant reporting requests made by NHS Improvement.