

Executive Summary

Report to the Board of Directors

Being Held on 25 July 2023

Subject	Enforcement Undertakings Update
Supporting TEG Member	Sandi Carman, Assistant Chief Executive
Author	Sandi Carman, Assistant Chief Executive
Status¹	Note and discuss

PURPOSE OF THE REPORT

This paper outlines the Trust's regulatory position with NHS England and asks the Board of Directors to discuss the approach taken to reporting progress against the enforcement undertakings which were approved by the Board in November 2022.

KEY POINTS

The findings from the CQC inspection published in April 2022, and earlier inspection outcomes, led NHS England (NHSE) to take the decision to initiate formal regulatory action in the form of Enforcement Undertakings.

The drafting of the Undertakings did not consider the outcomes of the unannounced CQC inspection in September 2022, due to the sequencing of the various processes. This subsequent inspection resulted in an improved CQC regulatory position with no services being rated as inadequate and supported the expiry of the Section 29a Warning Notice on the 17 July 2022.

The requirement for the Trust to support these enforcement undertakings sat alongside the NHS Operating Framework 2022/23 exit criteria agreed at the NHSE Regional Quality Board on the 20 July 2022. This exit criteria set out the improvements required to exit from NHSE Quality Board enhanced surveillance. Compliance with this exit criteria was confirmed at the NHSE and Sheffield Teaching Hospitals Board to Board meeting in January 2023.

In November 2022 the Trust agreed to:

- a) Ensure the actions we take continue to align with the enforcement undertakings.
Confirmed – See attached table which provides an overview of the actions taken.
- b) Work towards compliance with the exit criteria agreed with NHS England Regional Quality Board.
Confirmed – exit criteria compliance confirmed following the STH and NHS England Board to Board meeting held in January 2023.
- c) Work with colleagues to maximise the benefits of the mandated support provided as a result of moving to Segment 3.
Ongoing – support currently includes the improvement support provided to enhance the delivery of services for patients with mental health needs (appreciative enquiry).

In summary the Trust considers it has taken action to secure:

- a) That the breaches outlined in the Enforcement Undertakings cannot continue or recur,
- b) That the position is, so far as possible, restored to what it would have been if the breach or potential breach in question was not occurring or had not occurred,
- c) The actions required as prescribed in the Enforcement Undertakings [narrative included in the table below]

This regulatory next steps have been discussed with colleagues at NHS England who advise that they are working with the South Yorkshire Integrated Care Board colleagues to develop exit criteria for all NHS Providers in the South Yorkshire system. NHS England have agreed to develop an initial draft of the exit criteria, working with regional functional leads for further discussion with the Integrated Care Board and each of its NHS Providers.

It is therefore proposed that the following actions are undertaken in sequence:

- a) Engagement with the Care Quality Commission (CQC) and prepare a submission to apply to have the conditions on the Maternity Services CQC registration removed.
- b) Engagement with the South Yorkshire Integrated Care Board to review and seek removal of the Enforcement Undertakings.
- c) Engagement with the South Yorkshire Integrated Care Board to consider the actions required to enable the organisation to move into System Oversight Framework (SOF) level 2.

IMPLICATIONS

Aim of the STHFT Corporate Strategy		✓ Tick as appropriate
1	Deliver the Best Clinical Outcomes	✓
2	Provide Patient Centred Services	✓
3	Employ Caring and Cared for Staff	✓
4	Spend Public Money Wisely	✓
5	Create a Sustainable Organisation	✓
6	Deliver Excellent Research, Education and Innovation	✓

RECOMMENDATIONS

The Board of Directors is asked to NOTE the progress made to address the requirements set out in the Enforcement Undertakings and SUPPORT the proposed actions.

APPROVAL PROCESS

Meeting	Date	Approved Y/N
Trust Executive Group	21 Jun 23	Y
Board of Directors held in public	25 July 23	

Theme	Requirement	Evidence
Quality and Governance	1.1 The Licensee will, in a timely manner, take all reasonable steps to meet the applicable quality standards overseen by the CQC. This includes taking the actions outlined in 1.2 and 1.7	Following the receipt of the April 2022 CQC Inspection Report, the Trust worked on improving the key 17 Outcomes identified through analysis of the must do requirements of the CQC report. This enabled focused improvement on the key areas of risk and good progress was made. In the next phase of the improvement journey, five improvement workstreams and three areas of intensive support were identified which enable renewed focus on these important areas of delivery. Currently three improvement workstreams remain open and overall progress has been positive. Three areas of intensive support remain in place.
	1.2 The Licensee will take immediate steps to address the patient safety concerns identified in the Warning Notice, to the satisfaction of the CQC and any further action necessary to ensure the warning notice expires as soon as reasonably practicable.	Immediate steps were taken to address the concerns and the Warning Notice expired on the 17 July 2022
	1.3 The Licensee will, within a timeframe to be agreed with NHS England, submit to NHS England a recovery plan (“the Recovery Plan”) setting out the steps it will take to achieve the objective outlined in 1.1 above, including how it will address the issues and recommendations outlined in the CQC report; and any risks and mitigations to its achievement. The Recovery Plan must specify timescales for completion of identified actions.	The Trust were advised that the CQC Action Plan, the Maternity Improvement Programme actions and the ‘plan on a page’ improvement workstreams align to the requirements identified as the ‘Recovery Plan’ detailed in these Enforcement Undertakings. Both reports have been regularly submitted to the NHSE Quality Board and the STH Board of Directors. [Copy of current version to be made available]
	1.4 The Licensee will periodically assess and, where necessary, revise the Recovery Plan to ensure it remains deliverable and sufficient to address the objective outlined in 1.1. The Licensee will submit any proposed amendments to the Recovery Plan to NHS England in a timely manner and will implement such amendments as NHS England approve.	Regular monthly updates were provided. In line with the National Quality Board Quality Risk Response and Escalation Guidance following the Quality Board in January 2023 it was confirmed the Trust has demonstrated evidence to inform a move from the Intensive Assurance and Improvement Segment to the Enhanced Assurance and Improvement Segment. This acknowledgement of the reduced need for NHS England oversight of the Trust meant that oversight of the Quality Board arrangements has transferred to the South Yorkshire Integrated Care Board.
	1.5 The Licensee will deliver the Recovery Plan in accordance with the timescales specified in the Recovery Plan.	Actions delivered in line with the Improvement Plans submitted or alternative deadlines set in liaison with NHS England colleagues.
	1.6 The Licensee will provide, at a date to be agreed with NHS England, a report demonstrating how the board is assured that the objective in 1.1 has been met.	Compliance with all aspects of CQC Must Do actions is being collated to provide evidence to the regulators.

	<p>1.7 The Licensee will ensure that the delivery of the Recovery Plan, and other measures to improve quality and operational performance, do not compromise its overall financial position. The Licensee will keep the financial cost of its quality improvements under close review and will notify NHS England as soon as practicable of any matters which are identified as potentially having a material impact on the Licensee's overall financial position.</p>	<p>Balanced year-end financial position delivered and robust plans in place for 2023/24.</p>
<p>Programme Management and Governance</p>	<p>The Licensee will implement sufficient programme management and governance arrangements to enable delivery of these undertakings</p>	<p>Interim Improvement Director recruited to provide support during the initial period. New substantive Quality Director appointed. Refreshed Quality Governance assurance processes in place.</p>
	<p>Such programme management and governance arrangements must enable the Licensee's Board to:</p> <ul style="list-style-type: none"> • Obtain clear oversight over the progress in delivering the undertakings. • Obtain an understanding of any risks to the successful achievement of the undertakings. <p>Hold individuals to account for the delivery of the undertakings.</p>	<p>Arrangements in place covered</p>
<p>Meetings and Reporting</p>	<p>The Licensee will provide regular reports to NHS England on its progress in meeting the undertakings set out above and will attend meetings, or, if NHS England stipulates, conference calls, as required, to discuss its progress in meeting these undertakings.</p>	<p>Since June 2022, 8 NHS England Regional Quality Board meetings have been held and the Trust has reported updates regarding actions and improvements undertaken in Maternity Services and across the Trust following the CQC inspections.</p> <p>These matters have also been reported to the Board of Directors through the Maternity and Neonatal Safety report and the CQC Action Plan updates, along with other associated papers.</p>
	<p>The Licensee will provide NHS England with the evidence relied on by its Board in achieving assurance in relation to its progress in delivering these undertakings.</p>	<p>All requests made through NHS England Quality Board addressed.</p>
	<p>The Licensee will comply with any additional relevant reporting or information requests made by NHS England.</p>	<p>All additional requests responded to.</p>