

Enforcement Undertakings

LICENSEE:

Nottingham CityCare Partnership CIC
1 Standard Court,
Park Row,
Nottingham,
NG1 6GN

DECISION

On the basis of the grounds set out below, and having regard to its Enforcement Guidance, NHS Improvement 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").

In this document, references to NHS Improvement are references to Monitor.

GROUND

1. Licence

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

BREACHES

2. Financial Governance Breaches

- 2.1. NHS Improvement has reasonable grounds to suspect that the Licensee has provided and is providing healthcare services for the purposes of the NHS in breach of the following conditions of its licence: CoS3(1)(a); CoS3(1)(b) and CoS7(1).
- 2.2. NHS Improvement believes that the actions, which the Licensee has undertaken to take pursuant to these undertakings, will secure that the suspected breaches do not continue or recur.
- 2.3. The grounds on which breach is suspected are:
 - 2.3.1. The Licensee is forecasting a FY17 year-end loss of £1.4m and closing balance sheet reserves of £1.2m. The FY18 budget submitted by the Licensee demonstrates year end cash headroom that provides limited assurance of resilience to fund operating expenditure in FY18.
 - 2.3.2. The Licensee has submitted a breakeven budget for FY18, underpinned by a challenging financial recovery plan, with £3.3m of cost savings equating to 5% of cost base in year.
 - 2.3.3. A financial governance review by the Good Governance Institute dated January 2017 identified a number of areas requiring attention in financial

governance at the Licensee and has made a number of recommendations to be implemented immediately or within three to six months.

2.4. The suspected breaches by the Licensee demonstrate:

2.4.1. Shortcomings in governance arrangements in particular but not limited to 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 providing reasonable safeguards against the risk of the Licensee being unable to carry on as a going concern; and

2.4.2. A risk of the Licensee being unable to carry on as a going concern should ongoing delivery of the financial recovery plan not be achieved.

3. Appropriateness of Undertaking

In considering the appropriateness of accepting in this case the undertakings set out below, NHS Improvement has taken into account the matters set out in its Enforcement Guidance.

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 Planning

1.1 The Licensee has prepared a budget for FY18 (“the Financial Recovery Plan or FRP”) reflecting cost saving plans which will enable the Licensee to return to financial balance. The Licensee will demonstrate that it is able to deliver the FRP. The Licensee will keep the delivery of the FRP under review and will amend the FRP to take account of any significant matters identified and agreed with NHS Improvement. References to the FRP in these undertakings will mean the FRP as so amended.

1.2 The Licensee will develop detailed implementation plans for any capital disposals (“Capital Disposals Plan”) which may be needed to mitigate under-delivery of the FRP. The Capital Disposals Plan will be finalised by a date agreed with NHS Improvement taking account of any necessary external approvals. The Licensee will take all reasonable steps to implement the Capital Disposals Plan.

1.3 The Licensee will ensure that tender submissions and business cases which are necessary to support its financial recovery are supported by robust financial and non-financial information and are subject to appropriate Board challenge and scrutiny.

2. Financial Governance

2.1 By a date agreed with NHS Improvement, the Licensee will develop an action plan (“Action Plan”) for the implementation of the recommendations from the financial governance review by the Good Governance Institute dated January 2017.

- 2.2 The Licensee will agree clear milestones for the delivery of the Action Plan with NHS Improvement.
- 2.3 The Licensee will report to NHS Improvement on delivery against the Action Plan in an agreed format and to agreed timescales.
- 2.4 The Licensee will keep the Action Plan under review and agree any necessary amendments with NHS Improvement where required.

3. Financial Reporting

- 3.1 The Licensee will submit progress reports to NHS Improvement against all of the plans referred to in these undertakings on a monthly basis (or otherwise as required) and by exception until such date as agreed with NHS Improvement. The progress reports will identify any deviation from the actions and associated timeframes for delivery of the plans and will be signed off by the Licensee's Commercial Director of Finance.
- 3.2 The Licensee will agree resourcing of its finance function with NHS Improvement by a date to be agreed and will recruit and maintain that level of resource.
- 3.3 The Licensee will continue to co-operate with NHS Improvement and report by exception any emerging risks to delivery of the FRP.

4. Meetings

- 4.1 The Licensee will continue to attend meetings (or if NHS Improvement stipulates conference calls) with NHS Improvement during the currency of the undertakings to discuss its progress in meeting the 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.

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.

Any failure to comply with the above undertakings will render the Licensee liable to further formal action by NHS Improvement. 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 Improvement is satisfied that the Licensee has given inaccurate, misleading or incomplete information in relation to the undertakings: (i) NHS Improvement may treat the Licensee as having failed to comply with the undertakings; and (ii) if NHS Improvement decides so to treat the Licensee, NHS Improvement must by notice revoke any compliance certificate given to the Licensee in respect of compliance with the relevant undertakings.

LICENSEE



Signed: Christopher Mahon (Chair of Licensee)

Dated: 12 June 2017

NHS IMPROVEMENT



Signed: Mark Cubbon, Regional COO Midlands & East (Vice-Chair Regional Support Group)

Dated 12 June 2017