

<b>To:</b>	<b>Trust Board - Public</b>
<b>From:</b>	Directorate of Estates And Facilities
<b>Date:</b>	1 <sup>st</sup> August 2017
<b>Healthcare standard</b>	Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 15: Premises and equipment

<b>Title:</b>	Regulatory Reform (Fire Safety) Order 2005  Enforcement Notice's for Pilgrim and Lincoln Hospital and Fire Safety Improvements		
<b>Author/Responsible Director:</b> Director of Estates & Facilities			
<b>Purpose of the Report:</b> To advise the board on the fire safety work in the context of the enforcement notices received from Lincolnshire Fire and Rescue and the requirement for capital resources to meet the statutory obligations.			
<b>The Report is provided for:</b>			
	Decision	<input type="checkbox"/>	
	Discussion	<input checked="" type="checkbox"/>	X
	Assurance	<input type="checkbox"/>	
	Information	<input checked="" type="checkbox"/>	X
<b>Summary/Key Points:</b>			
<p>ULHT has received two Fire Safety Enforcement Notices for Pilgrim and Lincoln Hospitals from Lincolnshire Fire and Rescue Service under the terms of the Fire Safety Order legislation.</p> <p>An application has been made to the Department of Health via NHS Improvement (NHSI) for additional capital financing of £40.6m over a three year period from 2017/18 to 2020/21.</p> <p>This paper sets out a summary of the immediate capital requirements to ensure improvements to the estate can be made in accordance with the enforcement notices and the risks to existing capital plans and statutory compliance should insufficient funding be available and allocated to ULHT.</p>			

<b>Recommendations:</b>	
To acknowledge the risk that in the instance of the requested external capital financing resources not being available or being delayed from the expiry of internal funds for existing fire safety plans;	
<ul style="list-style-type: none"> <li>• the significant risk to the existing capital programme due to capital being redeployed to fire safety.</li> <li>• the significant risk of non-compliance against the safety requirements stipulated in the enforcement notices and subsequent statutory action being taken against ULHT due to the inability to deliver the required works with internal capital resources only.</li> </ul>	
<b>Strategic Risk Register N/A</b>	<b>Performance KPIs year to date N/A</b>
<b>Resource As described</b>	
<b>Assurance Implications As described</b>	
<b>Patient and Public Involvement (PPI) Implications N/A</b>	
<b>Equality Impact N/A</b>	
<b>Information exempt from Disclosure No</b>	
<b>Requirement for further review? Yes</b>	

### Background

ULHT has over time been working closely with Lincolnshire Fire and Rescue Service who have carried out various inspections and made subsequent recommendations. These recommendations had been dealt with as they occurred and improvements made.

Due to a number of recent fires, the majority of which were associated with aging electrical equipment, Lincolnshire Fire and Rescue decided that additional steps needed to be taken to improve fire safety, upgrade infrastructure and buildings and to put some additional timescales for those improvements to be made within.

ULHT were working with Lincolnshire Fire and Rescue against an action plan to deliver those improvements, however whilst that work was being undertaken two additional fires occurred at Pilgrim hospital and Lincoln hospitals. This resulted in the enforcing authority upgrading the action plan status to enforcement notice for those hospitals.

Grantham hospital remains as an action plan and on the 15<sup>th</sup> of June 2017 Lincolnshire Fire and Rescue confirmed that progress was satisfactory.

The key requirements for the enforcement notices under the Regulatory Reform (Fire Safety) Order 2005 are:

Article 8 – Duty to take general fire precautions  
 Article 9 - Risk Assessment  
 Article 11 – Fire safety arrangements  
 Article 13 - Fire detection  
 Article 14 – Emergency routes and exits  
 Article 15 – Procedures for serious and imminent danger  
 Article 17 – Maintenance  
 Article 21 – Training

These requirements must be complied with over a number of individual timescales from three months to two years.

### Resource requirements

The fire enforcement notices at both Pilgrim and Lincoln sites along with the fire safety action plan for Grantham hospital places upon ULHT a substantial financial burden over a three year period to upgrade its buildings and infrastructure across all of its estate.

An application for capital funding has been made to NHS Improvement and is set out in the table below. Currently we do not have assurance of the availability or allocation of any funds.

	<b>2017/18 £m</b>	<b>2018/19 £m</b>	<b>2019/20 £m</b>	<b>Total Funding requirement</b>
Fire Enforcement Notice and associated works – Pilgrim	7.0	7.3	3.5	17.7
Fire Enforcement Notice and associated works – Lincoln	5.2	7.8	3.8	16.9
Fire Action Plan and associated works – Grantham	4.5	5.1	2.4	12.0
<b>Total Cost</b>	<b>16.7</b>	<b>20.3</b>	<b>9.7</b>	<b>46.7</b>
<b>Trust Contribution</b>	<b>2.1</b>	<b>2.0</b>	<b>2.0</b>	<b>6.1</b>
<b>Total Funding requirement</b>	<b>14.6</b>	<b>18.3</b>	<b>7.7</b>	<b>40.6</b>

Therefore Trust Board must consider the risks in the context of an urgent legal safety requirement, with enforced short term compliance timescales and an insufficiency of internally generated funds. These risks include failure to deliver the existing capital programme (see table below) and also compliance with the enforcement notices.

The key risk alongside the safety concerns of a lack of external finance supporting and facilitating the Trust in undertaking this programme of works may be further enforcement action including prosecution. The alternatives will include considering the service mitigation requirements that balance our legal obligations with necessary patient care.

The Trust is currently reviewing its 17/18 and 18/19 capital programmes to understand what support that has not already been committed could be re-prioritised to support the capital requirement to fund compliance with the fire enforcement notices and statutory regulation.

The Trust has access to only £12.6m internally generated capital resources each year. Through the internal capital planning process the Trust had in excess of £45m worth of applications to access capital resources in 2017/18 which demonstrates the demand for capital within ULHT. This bid alone is for £40.6m over 3 financial years. The Trust has prioritised its 2017/18 capital programme through a number of committees and ultimately had it signed off by the Trust Board. The 2017/18 capital programme is inclusive of;

- £2.7m to deliver the CQC agenda\*
- £2m IT related investments including increasing IT security (full requirement still under review).
- £2.7m pre-commitments from 2016/17,
- £2m critical medical devices replacement
- £3m Estates and Backlog compliance expenditure (including £2.1m for fire).
- £0.1m Charitable funds

**Total £12.5m**

- The resources available are not sufficient for service developments and modernisation or to support the STP.

\*As per the CQC visit and report the associated capital requirements were identified post submission of the original capital plan. The £2.7m CQC related investments have been contained through a previous re-prioritisation of the capital programme, which fundamentally meant that planned service developments such as Resus rooms in A&E will need to be deferred into future financial years.

The Trust is also reviewing IT infrastructure as a consequence of the recent cyber-attack which may increase the current IT capital plan of £2m.

The following table sets out the summary of ULHT’s capital programme by scheme

<b>Planned Capital Expenditure</b>	<b>2017/18 £m</b>	<b>2018/19 £m</b>	<b>2019/20 £m</b>
Scheme 1 – 2016/17 pre-commitments	2.7	0.1	0.0
Scheme 2 – Charitable Funds	0.1	0.1	0.1
Scheme 3 – CQC	2.7	0.0	0.0
Scheme 4 – Medical Devices Replacement	2.0	3.0	2.6
Scheme 5 – Estates and Backlog (includes compliance)	3.0	3.6	3.6
Scheme 6 – IT (includes Cyber security)	2.0	3.0	3.0

Scheme 7 – MRI replacement programme	0.0	1.5	3.0
Scheme 8 – A&E Resus	0.0	1.4	1.1
Scheme 9 – Other & Contingency	0.0	0.2	0.8
<b>Total Capital Programme</b>	<b>12.5</b>	<b>12.9</b>	<b>14.2</b>
<b>Funded By:</b>			
Depreciation	12.6	12.9	14.1
Capital Investment loan	-0.2	-0.1	0.0
Charitable funds	0.1	0.1	0.1
Capital PDC			
Cash reserves			
Asset disposals			
I&E Surplus			
Working capital movements			
<b>Total funding sources</b>	<b>12.5</b>	<b>12.9</b>	<b>14.2</b>

### Programme Resource Availability and Continuity

Due to the short delivery timescales it is necessary to operate a rolling programme which needs to have certainty of capital availability and flow to enable the initial mobilisation of contractors and supporting resources to ensure that a gap in delivery does not occur leading to uncertain delivery and potential breach of the enforcement notices.

Currently £3m is allocated for Estates and Backlog compliance expenditure, including £2.1m for fire.

This internal capital allocation will expire at the end of September and without availability of capital from that point the programme will encounter significant delays as commissioned work will need to be paused and, when funding allows, recommenced, introducing lengthy delays and additional remobilisation costs.

To enable the programme of works to continue in the absence of additional external funding then further available internal capital could be used as follows;

The fire safety programme in 2017/18 will use on average approximately £2.43m of capital each month from the end of September 2017.

The capital spend as at the end of Q1 was £1.5m. This was inclusive of £600k of the £2.7m that was pre-committed in 16/17 and £900k of new schemes started in 2017/18. There is a further £2.1m of schemes that were pre-committed in 16/17 into 17/18, resulting in the total capital spend and commitments as at the end of Q1 of £3.6m.

Therefore for example, if all remaining internal capital resources of the £12.5m are deployed less the total capital spend and commitments of £3.6m and existing fire safety works allocation of £2.1m which total £5.7m, leaving £6.8m then this will be fully utilised in towards the end of December 2017.

This will mean that the fire safety works will need to stop at the end of September unless external funding is accessible as a consequence of the

NHSI capital finance application or alternative remaining internal sources are used which will extend the programme to December as in this example.

In this way the programme of safety works could continue to an overall reduced plan in 2017/18 using additional internal funds were those to be reprioritised, however a reduced plan means that delivery against the statutory objectives becomes less secure.

In addition the uncertainty of availability of capital introduces risk for existing planned capital schemes who are currently being paused from proceeding whilst a decision is made by the Department of Health concerning the capital funding application.

Ultimately should additional external support not be forthcoming and internal funds fall short of the requirement to meet the enforcement notices then ULHT will not be able to comply with the Statutory Fire Enforcement Notice and will result in further legal action.