

Our ref: UHLNHST_s30_250518

Rt Hon Mr J Hunt
Secretary of State
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Dear Secretary of State

Referral under section 30 of the Local Audit and Accountability Act 2014

We are the auditor appointed to the audit of University Hospitals of Leicester NHS Trust for the year ending 31 March 2018.

Our responsibility

Section 30 of the Local Audit and Accountability Act 2014 (the 2014 Act) states that:

A local auditor of the accounts of a health service body must as soon as reasonably practicable refer the matter to the Secretary of State if the auditor believes that the body or an officer of the body:

(a) is about to make, or has made, a decision which involves or would involve the body incurring unlawful expenditure, or

(b) is about to take or has begun to take a course of action which, if followed to its conclusion, would be unlawful and likely to cause a loss or deficiency.

We are writing to you in accordance with sections 30(b) and 30(a) of the Local Audit and Accountability Act 2014.

The duty of the Trust

Paragraph 2(1) of Schedule 5 of the National Health Service Act 2006 provides:

Each NHS trust must ensure that its revenue is not less than sufficient, taking one financial year with another, to meet outgoings properly chargeable to revenue account.

This duty is known as the 'break even duty'. The phrase 'taking one year with another' has been interpreted by the Department of Health and Social Care and HM Treasury as meaning that the duty is met if income equals or exceeds expenditure over a three year rolling period, or exceptionally a five year rolling period with the agreement of the NHS Improvement.

Reasons for making a referral under section 30 of the Local Audit and Accountability Act 2014.

s30(b) referral

Taking into account the statutory breakeven duty: a guide for NHS trusts guidance issued by NHS Improvement in April 2018 we have reason to believe that the University Hospitals of Leicester NHS Trust has taken a course of action that has led to a breach of the Trust's break-even duty for the three year period ending 31 March 2018.

The Trust's previous auditor, KPMG LLP, made a referral under section 30 of the Local Audit and Accountability Act 2014 on 1 June 2017, as the Trust had taken a course of action which had led to a breach of the Trust's break-even duty for the three-year period ending 31 March 2017. The Trust recorded a deficit of £27.2 million in 2016/17, which resulted in a cumulative deficit at the end of year four of £136.4 million.

The Trust set a deficit budget of £26.7 million for the year ended 31 March 2018 and has reported a £34.5 million deficit out-turn in the 2017/18 draft financial statements. As demonstrated in the table below, this results in a cumulative deficit of £170.8 million at 31 March 2018.

Table 1: Breakeven Duty

	Year1	Year 2	Year 3	Year 4	Year 5
	2013/14	2014/15	2015/16	2016/17	2017/18
	£'000	£'000	£'000	£'000	£'000
Final In-Year Position	(39,655)*	(40,648)*	(34,051)*	(27,152)*	(34,455)**
Cumulative Break-even Position	(34,502)*	(75,150)*	(109,201)*	(136,353)*	(170,808)

Sources: *Note 33.1 of the 2016/17 audited financial statements

**Note 35 of the 2017/18 unaudited financial statements

The Trust therefore continues to take a course of action, which gives rise to a duty on us to report to you under section 30(a) of the 2014 Act in respect of the Trust's breach of its break-even duty for the three year period ending 31 March 2018.

s30(a) referral

University Hospitals of Leicester NHS Trust does not have a formal plan to return to in-year financial balance until 2021/22. The Trust has set a deficit budget for the year ended 31 March 2019 of £21.6 million. The Trust has no plans to achieve cumulative financial balance over the period of its current medium term financial plan to 2022/23, as demonstrated by its Forecast Medium Term Financial Plan:

Table 2 – Forecast Medium Term Financial Plan

	Year1	Year 2	Year 3	Year 4	Year 5
	2018/19	2019/20	2020/21	2021/22	2022/23
	£m	£m	£m	£m	£m
Forecast In-Year Position	(21.7)	(94.0)	(92.9)	(76.3)	2.8
Impairments	0.0	73.4	72.4	78.0	0.0
Donated Asset Adjustment	0.1	0.3	0.3	0.3	0.3
Forecast Board Reported Position	(21.6)	(20.3)	(20.2)	2.0	3.1

The Trust continues to recognise that service configuration is required across its three sites and in the long term the aim is that services are reconfigured across two acute sites, both becoming financially viable, whilst delivering safe and appropriate services to their local communities. This will involve joint working by the Trust with its commissioners and other partners to ensure that any capital funding required to deliver the reconfiguration is received.

The Trust has made a decision, over the period of its current medium term financial plan which gives rise to a duty on us to report to you under section 30(a) of the 2014 Act.

We understand that this is a matter which is already known to the Secretary of State, hence the brevity of this referral letter. Please do not hesitate to contact us if you need any further information.

Yours sincerely

Grant Thornton UK LLP