

National Health Service Act 2006 (“the Act”)

NOTICE of exercise of intervention powers under section 52 of the Act

**To: The Board of Directors and The Board of Governors
Basildon and Thurrock University Hospitals NHS Foundation Trust
Trust Headquarters
Nethermayne
Basildon
Essex
SS16 5NL**

1. On the basis of information made available to the Independent Regulator of NHS Foundation Trusts (“Monitor”) by Basildon and Thurrock University Hospitals NHS Foundation Trust (“the Foundation Trust”) and having taken into account representations made to Monitor by the Foundation Trust, Monitor is satisfied that:
 - (a) the Foundation Trust has contravened, and is failing to comply with its terms of Authorisation, in particular:
 - (i) Condition 2, which requires the Foundation Trust to exercise its functions “*effectively, efficiently and economically*”;
 - (ii) Condition 5(1), which requires the Foundation Trust to ensure the existence of appropriate arrangements to provide representative and comprehensive governance and to maintain the organisational capacity necessary to deliver the mandatory goods and services set out in Schedule 2 to its terms of Authorisation;
 - (iii) Condition 6(1), which requires the Foundation Trust to put and keep in place and comply with arrangements for the purpose of monitoring and improving the quality of health care provided by and for the Foundation Trust; and
 - (iv) Condition 6(2) which requires the Foundation Trust to comply with statements of standards in relation to the provision of health care published by the Secretary of State under section 46 of the Health and Social Care (Community Health and Standards) Act 2003, as set out in the Department of Health publication Health and Social Care Standards and Planning Framework (July 2004) as may be amended from time to time; and
 - (b) the contravention and failure are significant under section 52(1) of the Act.
2. This Notice constitutes formal notification of the immediate exercise by Monitor of its statutory powers under section 52(3) and (4) of the Act.
3. Without prejudice to any further action which Monitor may take under the Act, Monitor requires the Foundation Trust to:

- (a) appoint external advisers, to be agreed with Monitor, to establish and oversee a programme office to manage and report on the delivery of quality of service improvement action plans;
- (b) agree with Monitor the objective performance metrics against which the Foundation Trust's performance will be measured over the period of 6 months from the date of this notice; and
- (c) take steps to strengthen senior clinical capacity, in particular to assist the programme office in the delivery of the Foundation Trust's action plans and to provide additional support to the Medical Director and Director of Nursing.

A handwritten signature in black ink, appearing to read 'William Moyes', with a horizontal line drawn underneath the signature.

Dated 26 November 2009
William Moyes
Executive Chairman

**Annex to NOTICE dated 26 November 2009 of exercise of intervention powers
under section 52 of the Act to:**

Basildon and Thurrock University Hospitals NHS Foundation Trust

The Foundation Trust currently has a governance risk rating of red.

The formal intervention relates at this stage to matters of organisational and clinical leadership capacity.

The aim of this formal intervention is (a) to assist the Foundation Trust in focussing on the delivery of specific service improvements and (b) to assist the Foundation Trust in acquiring the leadership, including clinical leadership, skills it will need in order to take effective action to address its governance failures. In requiring the Foundation Trust to take steps to strengthen the clinical leadership capacity, Monitor envisages that this is likely to involve the appointment of at least one interim senior clinical adviser.

Overall, intervention is a secure mechanism of ensuring that appropriate regulatory control is in place to help stabilise the Foundation Trust, assist in its successful recovery and to protect the services it provides for patients.