

Ms Angela Schofield
Chair
Poole Hospital NHS Foundation Trust
Longfleet Road
Poole
BH15 2JB



4 Matthew Parker Street
London
SW1H 9NP

T: 020 7340 2400
F: 020 7340 2401
W: www.monitor.gov.uk

4 June 2013

Dear Angela,

Poole Hospital NHS Foundation Trust (the “Trust”)
Notification of opening of a formal investigation into compliance with the Trust’s licence

1. Further to my conversation with Chris Bown on 24 May 2013, I am writing to inform you of Monitor’s decision to open a formal investigation into the Trust’s compliance with its licence. This investigation has been opened due to financial sustainability and governance concerns arising out of your recent indication that the Trust is forecasting a significant financial deficit in both 2014/15 and 2015/16 should the merger with The Royal Bournemouth and Christchurch Hospitals NHS Foundation Trust (“the Merger”) not proceed.
2. The purpose of this letter is to:
 - 2.1 set out the issues which have led to our concerns; and
 - 2.2 confirm the process Monitor will adopt in assessing the extent of these concerns, whether they may amount to a breach of the Trust’s licence, and any regulatory action which may be appropriate in consequence.
3. **Monitor’s concerns**
 - 3.1 The issues outlined in the Trust’s letter to Monitor of 01 May 2013 may indicate a potential failure by the Trust to comply with the conditions of its licence. The letter states that without the Merger, the Trust is unlikely to be able to continue as a going concern. Specifically the Trust states that it is:
 - 3.1.1 projecting a deficit in 2014/15 of c.£8m and 2015/16 of c.£14m;
 - 3.1.2 forecasting a balanced position in 2013/14 only due to “an explicit commissioner subsidy of £3.3m”; and
 - 3.1.3 of the view that it (to quote your letter) “could not avoid ending up in the failure regime at some point in time absent of merger”.

- 3.2 In deciding to open a formal investigation, Monitor has in particular considered the following matters:
- 3.2.1 Monitor has been concerned about the long-term financial viability of the Trust for some time. There is a risk that the merger may not happen and the Trust has been advised by Monitor to consider alternative options; and
- 3.2.2 Monitor's *Prioritisation Framework* as set out in Section 2.1 of its Enforcement Guidance.
- 3.3 In addition, we note the issues surrounding clinical sustainability of the Trust as identified in the Trust's paper, "Diagnosis of PHFT's unsustainable future, Counterfactual to the Merger" (enclosed with the Trust's letter of 1 May 2013), if the Merger did not go ahead.

4. Monitor's process to determine whether the Trust is in breach of its licence and what if any regulatory action is appropriate in relation to its concerns

- 4.1 Monitor considers all relevant factors in assessing what, if any, regulatory action is appropriate in relation to its concerns, including:
- Information gathered from the provider and relevant third parties;
 - Any Trust Board assurance that the Trust is able to continue to meet the conditions of its licence;
 - Monitor's published guidance relating to the requirements of the licence; and
 - The factors set out in Monitor's Enforcement Guidance.
- 4.2 Monitor would like to explore its concerns at a meeting with you and other members of your Board, to assist it in its consideration of whether the matters outlined above could indicate a breach of the Trust's licence and if so what if any regulatory action is appropriate in response. As part of the investigation, Monitor will also seek further information from the Trust and may consider relevant information from third parties such as CQC.
- #### **5. Next Steps**
- 5.1 The meeting will be held at Monitor's offices at a time and date to be confirmed with you, and will provide an opportunity for the Trust Board to explain and provide evidence as to the nature and strength of its financial sustainability and governance arrangements including its consideration of the matters set out in Section 3 and 4 of this letter.

- 5.2 The meeting will form part of the evidence to be taken into account by Monitor in determining whether there has been a breach of the licence and what if any regulatory action is appropriate. It will also be part of the evidence for any formal enforcement action that may be considered appropriate in line with Monitor's Enforcement Guidance.
- 5.3 The meeting will be chaired by Stephen Hay and attended by members of Monitor's relationship management team for the Trust, together with a representative from Monitor's legal team. We expect attendees from the Trust to include yourself, the Chief Executive, the Director of Finance, the Medical Director, the Chair of either the Finance or Audit Committee, and any other members of the Trust Board you deem appropriate.
- 5.4 In advance of the meeting and by 14th June 2013 at the latest, the Trust should provide us with the information set out in Appendix A.
- 5.5 Following our meeting, we will be able to confirm next steps and associated timings. Should formal enforcement action be considered, the Trust will be afforded further opportunity for engagement or representations as appropriate, in line with Monitor's Enforcement Guidance.

If you have any queries relating to the matters set out in this letter, please contact your relationship manager, Rachael Shaw on 020 7340 2555 or by email rachael.shaw@monitor.gov.uk.

Yours sincerely,



Paul Streat
Regional Director – South

cc.: Chris Bown, Chief Executive

Appendix A

Information requested from the Trust regarding performance

1. Board minutes (both public and private sessions) from January 2012 to present;
2. Audit Committee (and any other relevant finance committees) minutes from January 2012 to present;
3. Trust Board finance reports from January 2012 to present;
4. Any reports relating to the Trust's financial sustainability and/ or governance commissioned by the Trust from external parties since January 2012; and
5. Any other information considered relevant by the Trust Board.