

Case study: University Hospital of South Manchester NHS Foundation Trust (UHSM)

This case study has been prepared with UHSM, through interviews with members of its boards of directors and governors, to share the learning from their experience of the trust being in significant breach of its terms of authorisation¹.

Background

UHSM is a major acute teaching hospital trust providing general and specialist services for adults and children at Wythenshawe and Withington Hospitals.

UHSM was authorised as a foundation trust on 1 November 2006. It was found in significant breach² of its terms of authorisation on 29 July 2009 for healthcare standards (condition 6) and weaknesses in governance (condition 5) after breaching its MRSA contractual target for three consecutive quarters.

The Trust subsequently reported breaches of the 18 week performance target and breaches of the A&E target, which highlighted governance issues and concerns in relation to board effectiveness.

As a result of being found in significant breach of its terms of authorisation, UHSM was required to improve board governance and to address performance on healthcare standards. The Trust implemented improved governance (coming back into compliance on condition 5); and came back into compliance on healthcare targets for MRSA, A&E and 18 weeks, a process led by the Chair and CEO over a period of 11 months.

In June 2010, the Trust was de-escalated from significant breach as a result of the progress it had made to become compliant with its terms of authorisation. Since October 2010, UHSM has been rated Green both for Governance and use of resources with a risk rating of 3.

What action did Monitor and the UHSM Board take?

- Monitor determined, with the Trust, a set of challenging trajectories against which we would hold the Trust's board to account, on a monthly basis, for progress in addressing the challenges it faced. The Trust had already sought external independent reviews of Board effectiveness and Board assurance processes.

¹ Details of UHSM's terms of authorisation are available here: <http://www.monitor-nhsft.gov.uk/home/about-nhs-foundation-trusts/nhs-foundation-trust-directory/university-hospital-south-manchester>

² Where a trust is failing to meet its terms of authorisation, Monitor's board may find it to be in 'significant breach' of its authorisation based on serious concerns about financial stability or governance at the trust. Monitor will also then consider what regulatory action is appropriate. If a trust is deemed to be in significant breach, Monitor may use its statutory powers of intervention under Section 52 of the National Health Service Act 2006. Details of Monitor's forward-looking, risk-based approach to regulation can be found here: <http://www.monitor-nhsft.gov.uk/home/about-monitor/how-we-do-it/how-monitor-regulates-nhs-foundation-trusts>

Monitor required evidence that all the governance recommendations were being implemented and that the Trust was working with appropriate external advisers on Board development.

- As a result of the reviews, the Trust revised its Board to bring in the necessary skills for the Trust to return to and remain in compliance with its terms of authorisation.
- The Trust also commissioned an external review of the effectiveness of the Governing Council.
- A committee of Governors was formed for a short time to examine and make recommendations in respect of Council effectiveness, in particular in its ability to hold the Board to account.
- The Board reviewed information flows with the Governors, and made changes to the rhythm and channels of communication.
- Monitor held the Trust Board to account through detailed monthly submissions on progress and through progress review meetings with Monitor's executive team. The Trust Board came to Monitor's offices for these four times whilst in significant breach. Additionally, Monitor's compliance team visited the trust to assure progress.
- Monitor's Compliance Director met six of the governors, some of whom had led on reviewing the effectiveness of the council and its relationship with the Board, in order to establish whether sufficient progress had been made.

What was the impact of being found in significant breach?

- In the view of both the Chair and CEO of UHSM, being found in significant breach helped the Trust to address more quickly and effectively fundamental governance problems which, once resolved, lead to a sustained improvement of performance against targets.
- However, both the Chair and the CEO stressed that it was a difficult period for the board and senior management, especially in terms of the time investment required to bring about the changes while at the same time satisfying Monitor's requirement for significant evidence of sustainable change.
- The Chair and CEO also emphasised that the formality of being in significant breach had a concentrating effect on the board, testing its ability to work as a team and forcing it to take action and address its weaknesses. In particular, several members of the board stressed the importance of the progress review meetings with Monitor's executive team in addition to regular progress calls and monthly submissions tracking progress. Although a key factor was the Board recognising the problem and taking ownership of it, they believe having to account for their progress, and Monitor's understanding of the Trust's business, were important factors in turning around their performance.
- Several of those interviewed drew attention to the fact that when going through this process, a trust is under a huge amount of pressure and the volume of work involved can be significant. Furthermore, the board has to remain vigilant that while it works to resolve the problems, it does not lose focus on the other aspects of running a hospital.

- According to the governors we interviewed, it came as a shock to them when the Trust was put into significant breach. It led them to take immediate action, establishing a special committee to focus on the issues, interviewing the board members and working with the Chair, CEO, Company Secretary and external consultants to devise and implement a considered response. Governors believe that as a consequence of the Trust being put in significant breach they were forced to address weaknesses of which they had not been aware. They now have greater understanding of issues impacting the running of the Trust and are better placed to be able to challenge issues in the future and more effectively to hold the Board to account.

How important are the Chair and CEO when a trust is in significant breach?

- The Chair and CEO of UHSM support Monitor's view that sustained improvement and return to compliance has to be driven by the Board. The Chair and CEO have to accept that there is a problem before the Trust can move forward.
- The Chair and CEO both stressed the importance of a robust and effective working relationship between the two post-holders, as well as the need for personal resilience, as being in significant breach can be an isolating, high-pressure situation. Furthermore, they must both be prepared to take advice and to accept constructive criticism: from each other; from other Board members; and from their peers. For these reasons amongst others, there were suggestions that the Chair and the CEO should ensure that they are plugged in to local networks and that they are asking peers for advice, support and input.
- The Chair and CEO underlined the importance of working with the governors and recognising the important role they play when addressing the issues causing a significant breach.

How important was the external review of the Board?

- According to those interviewed, the Board review was instrumental in diagnosing and addressing problems. It brought issues into the light and resulted in Board members changing how they worked together. However, it was not the first external board review the Trust had commissioned. Significantly, the first review did not have the buy in of the Board. The Chair advised that in her experience:
 - it is important to get the Board to sign up to the review in advance and to commit to abiding by the recommendations it brings forward;
 - the quality of the third party adviser and their depth of knowledge are critical factors in gaining the confidence of the whole Board.

How does Monitor's approach add value?

- According to the Trust, Monitor's key contribution was in the identification of the problem at an early stage. The Chair described how Monitor's process "held up a mirror to the trust" and quickly brought the Board to the point where it was no longer

discussing whether there were problems, but was forced to identify and deal with them.

- Several members of the Board stated that a further benefit of Monitor's process was that it provided pace:
 - One Board member outlined that, left to its own devices, the Trust may have resolved the performance issues itself, sequentially; however, Monitor's involvement and structured process put the senior management of the trust under pressure to resolve the governance issue and the presenting problems in parallel.
 - Another Board member highlighted how the pace of improvements required resulted in creative solutions, in particular, the invention of a bed management system in A&E supported by a whiteboard platform.
- Monitor's approach was described as being rational, considered and focused on sustainable solutions rather than short term quick fixes. For example, Monitor was holding the Trust to account for the delivery of the trajectory it had outlined to return to compliance with the 18 week target. Upon deeper analysis of the data, the Trust established that the problem was worse than it had seemed and that it would need more time to address the problem sustainably. Monitor supported the Trust when it outlined a new trajectory for improvement, rather than forcing the pace against the initial timescales. The Trust's view was that this approach was reasonable and supportive.

Learnings for Monitor

Monitor also took away a number of lessons from its work with UHSM:

- The Trust reflected that Monitor should consider whether it needs all of the information it is requesting and whether it could be requested in a more timely fashion. Our process has now evolved. Under Monitor's Compliance Framework, we no longer ask for action plans, for example, and we have also made efforts to reduce the volume of information we request.
- As progress review meetings have proven to be effective in ensuring the pace of improvement we now have them more often with trusts that are in significant breach.
- As soon as a trust is in significant breach, Monitor now makes contact with the trust's governors and a lead governor should hear regularly from Monitor on progress.
- Where Monitor decides to back a Chair, we now make this clear to the Chair in order to empower them in leading the Trust out of significant breach, albeit with the caveat that this decision may be reviewed if the trust does not make progress in resolving the issues.
- The Trust stressed the importance of ensuring that relationships are in place between the Trust Chair and CEO and Monitor (at director level or above) to enable them to contact us for private conversations where appropriate. This is something that Monitor now has in place.