

**To:** The Board

**For meeting on:** 30 April 2014

**Agenda item:** 5

**Report by:** Miranda Carter, Executive Director of Provider Appraisal

**Report for:** Information

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**TITLE: Provider Appraisal Update**

**Summary:**

- There have been no new assessment referrals this month. Work is ongoing on the phase 1 assessment of Royal Liverpool and Broadgreen University Hospitals NHS Trust (RLBUH), three transaction reviews, and the quality governance pilots in the NHS Trust Development Authority (NHS TDA) phase. In addition the team is working on developmental projects including financial assumptions work, transaction guidance and developing the 'Well Led' framework
- The Care Quality Commission (CQC) announced the next wave of trusts to be inspected in Q1 2014/15. This included all but one of Monitor's current pipeline of applicants. The remaining trust is expected to form part of the Q2 wave.

**Recommendations:**

The Board is asked to note the report.

**Public Sector Equality Duty:**

*Monitor has a duty under the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations between people from different groups. In relation to the issues set out in this paper, consideration has been given to the impact that the recommendations might have on these requirements and on the nine protected groups identified by the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, gender and sexual orientation).*

*This report is not likely to have any particular impact upon the requirements of or the protected groups identified by the Equality Act.*

**Exempt information:**

*Some of this report is exempt under the Freedom of Information Act 2000.*

*Some of the information in this report (the confidential annex) is exempt from publication as it falls under section 36 of the Freedom of Information Act 2000. The information is exempt because disclosure of that information would, or would be likely to, inhibit the free and frank provision of advice, or exchange of views for the purposes of deliberation. In applying these exemptions, we have considered the public interest test; disclosure of this information will not enhance the accountability or transparency of Monitor as its disclosure would inhibit the free frank disclosure of information.*

## **A. Developments**

### *Governance review consultation*

1. Internal work has continued on defining the possible content of a well led framework which covers corporate governance (including the current good practice in quality governance). The results of this work will be fed into the consultation process on governance reviews for NHS foundation trusts (NHSFTs) alongside public consultation responses and feedback from pilot reviews at NHSFTs.

### *CQC*

2. On 17 and 24 February 2014 CQC announced the list of trusts to be inspected in Q1 2014/15. This included a number of Monitor's pipeline trusts: Kent Community Health NHS Trust, Birmingham Community Healthcare NHS Trust, and Nottinghamshire Healthcare NHS Trust. By the end of Q1, Norfolk Community Health and Care NHS Trust will be the only trust in Monitor's pipeline which has not been inspected under the new approach.
3. The two trusts in the NHS TDA's pipeline which are currently undergoing quality governance reviews (Bradford District Care NHS Trust and Liverpool Community Health NHS Trust) will also be inspected in Q1 2014/15.

### *NHS TDA*

4. The Assessment team continues to engage with the NHS TDA to streamline the end-to-end assessment process, focussing on streamlining the scope of the independent accounting firm work.
5. Both of the pilot quality governance reviews in the NHS TDA phase (Bradford District Care and Liverpool Community) have now commenced and are scheduled to be completed by the end of April 2014.
6. The Assessment team will have a discussion with the NHS TDA to identify a potential next set of trusts for review and undertake an evaluation of the pilot process in early April 2014 to determine learnings.

### *External Engagement*

7. The Executive Director of Provider Appraisal attended the Health Service Journal 100 roundtable on the changing face of NHS leadership and also the Foundation Trust Network Quality of Care Conference. Feedback was very positive on this event. The session on the Board's role in Quality was well attended (c. 60 delegates). Also on the panel (with the Executive Director of Assessment) were the chair and medical director of the Royal Free NHS Foundation Trust and the chief executive of Kingston Hospital NHS Foundation Trust.

## **B. Update on assessments**

8. The current status of NHS trusts with Monitor for assessment are listed in Annex 1.

### *Referrals*

9. There have been no referrals this month.

#### *Active assessments (exception reporting)*

10. The Royal Liverpool and Broadgreen NHS Trust was inspected by CQC on 25-27 November 2013 and the associated inspection report was published in February 2014. An Assessment team is in the process of undertaking a Phase 1 assessment which commenced in January 2014.

#### *Delayed, deferred and postponed trusts (exception reporting)*

11. Birmingham Community Trust was assessed in the summer of 2013, but deferred to 31 December 2013 due to quality governance and financial issues. The deferral period was extended to 31 March 2014 due to the need for a successful outcome of CQC inspection having to be in place before the Trust was reactivated. The Trust has been scheduled for inspection in Q1 2014/15.
12. The extension beyond the usual 12 month period is due to the exceptional nature of the change to CQC's inspection regime and this being outside the control of the Trust itself. This is in line with the Assessment team's approach with other deferred trusts.

#### *Assessment Pipeline*

13. An overview of the assessment pipeline is provided in Annex 2. This reflects the NHS TDA's latest available public forecast (January 2014) which indicated that 12 NHS trusts "are not considered sustainable in their current form and are therefore pursuing an organisational transaction". This leaves a total of 72 NHS trusts to be referred to Monitor.
14. The Assessment team does not expect to receive any further referrals from the NHS NHS TDA until CQC inspections have been completed.

### **C. Update on transactions**

15. Monitor published a consultation document on 20 January 2014 setting out proposals to update its approach to assessing the risks of transactions undertaken by NHS FTs. The consultation remained open until 28 February 2014. The amended Appendix C to the Risk Assessment Framework (which sets out the new transaction approach) was published on 1 April 2014. The consultation response is expected to be published shortly. Work is also being undertaken on updating a guidance document for trusts considering a transaction, consolidating existing information and updating Monitor's approach for new developments, for example the Health and Social Care Act 2012. The Assessment team expects that the new approach to transactions and the updated guidance documentation will be implemented in Q1 2014/15 and is aiming for the transactions guidance to be published at the end of April/early May 2014 to be consistent with the Co-operation and Competition directorate/Competition and Markets Authority's guidance.

**Miranda Carter**  
**Executive Director of Provider Appraisal**

**Annex 1: Current status of trusts with Monitor for assessment**

<b>Active assessments</b>					
<b>Trust name</b>	<b>Status</b>	<b>Start</b>	<b>Exec meeting*</b>	<b>Decision</b>	<b>Indicative CQC inspection date</b>
Royal Liverpool and Broadgreen*	Active	Jan 14	25 Apr	tbc	Inspected.

\* Trust was previously deferred. Assessment has been reactivated.

<b>QG review of NHS TDA pipeline trusts</b>				
<b>Trust name</b>	<b>Status</b>	<b>Start</b>	<b>Exec meeting*</b>	<b>Decision</b>
Bradford District Care Trust	Active	Jan 14	Mar 14	n/a
Liverpool Community Health NHS Trust	Active	Feb 14	Mar 14	n/a

## Annex 2: Pipeline information

### (i) Monitor pipeline

	As at 29 January 2014	As at 14 January 2014
<b>Total Foundation Trusts (FTs)</b>	<b>147</b>	<b>147</b>
<b><i>Monitor pipeline</i></b>		
Assessment decisions this month	-	-
Assessments in progress	1	1
Assessments paused post phase one assessments	6	6
Deferrals /postponements	8	8
Assessments awaiting start	-	-
<b><i>Total Monitor pipeline</i></b>	<b>15</b>	<b>15</b>
<b>NHS TDA pipeline *</b>		
NHS Trusts being reviewed for referral to Monitor **	13	13
Other NHS Trusts	59	59
Not in current organisational form ***	12	12
<b><i>Total NHS TDA pipeline</i></b>	<b>84</b>	<b>84</b>
<b>Total number of trusts</b>	<b>246</b>	<b>246</b>

\* Based on NHS TDA estimates

\*\* Based on NHS TDA January 2014 Board paper

\*\*\* South London Healthcare was dissolved in October 2013. Includes NHS Direct.

### (ii) Analysis of pipeline

	Acute	MH	Ambulance	Community	Other	Total
<b>NHS FTs</b>	101	41	5	-	-	<b>147</b>
<b>With Monitor</b>	3	5	1	6	-	<b>15</b>
<b>With NHS TDA – being reviewed for referral</b>	7	3	-	3	-	<b>13</b>
<b>With NHS TDA – pre referral review</b>	38	7	4	10	-	<b>59</b>
<b>Not as standalone NHS FTs</b>	9***	1	-	1	1	<b>12</b>
<b>Total</b>	<b>158</b>	<b>57</b>	<b>10</b>	<b>20</b>	<b>1</b>	<b>246</b>

### Annex 3: Transaction pipeline

<i>FT Name</i>	<i>Transaction Details</i>	<i>Estimated Report Date</i>
<b>Live Transactions</b>		
<b>Mergers, Acquisitions &amp; Joint Ventures</b>		
Royal Free London	Acquisition of Barnet and Chase Farm.	May-14
<b>Capital Investment &amp; PFI</b>		
North Tees and Hartlepool	New build PFI. OBC review of PFI scheme.	Mar-14
Papworth Hospital	New build PFI. Follow up financial and clinical review for DH.	Mar-14

## **Annex 4: Report of the Assessment Executive (AE) Meeting on 9 April 2014**

### **Assessment Update**

1. The AE noted the report which provided an update on Monitor's assessment activity during March 2014

### **Risk and Performance**

2. The AE discussed the quarterly risk and performance report, which set out the top risks faced by the Assessment directorate and the controls and measures which had been put in place to mitigate these risks, and made detailed suggestions for inclusion.

### **Developing the Assessment approach in line with corporate strategy**

3. The AE discussed the report, which clarified the Monitor's current approach to the assessment process and set out plans for ongoing improvement in line with Monitor's corporate strategy. The AE was content that the combined governance framework should be amended to ensure that it aligned with the CQCs 'Well Led' key line of enquiry on continuous improvement. The AE agreed that further thinking should be undertaken on the subject about how best to test the quality of strategic plans.

### **Authorisation of Providers of High Secure Services**

4. The AE considered the report, which set out recommendations to be implemented during the assessment of providers of high secure services for NHS FT status.

### **Review of Assessment Executive decision-making and operation**

5. The PAE considered the paper which set out the results of the annual review of the Committee's decision-making and operation and proposed a number of changes to the Committee's Terms of Reference. PAE members considered the proposal that responsibility for the review of significant investments, divestments and transactions proposed by NHS FTs and consideration of whether these transactions would place trusts in breach of their licence conditions should be incorporated within the PAE Terms of Reference (currently this responsibility sat with the Provider Regulation Executive (PRE)). The PAE was content with the proposal, noting, however, that it would require Regional Directors to be in attendance at these discussions. The PRE would give consideration to this proposal at its next meeting. The PAE resolved to adopt the proposed changes to the Committee's Terms of Reference, subject to the agreement of the PRE with regard to decisions on indicative risk ratings of significant transactions.