

FT Chairs and Chief Executives

2 June 2015

Sent via email

Dear Chair and Chief Executive

The NHS faces a continuing and significant challenge to simultaneously improve quality, meet access targets and drive up productivity. Meeting this challenge means there can be no let-up in the pace and scale of change in provider organisations.

Last year was the first year that the foundation trust sector as a whole ended the year in deficit. 77 out of 152 trusts lost money. Although this year's plans are more realistic than last year's, they would result in a worse performance for the sector. Put simply, this is unaffordable.

It is in the light of the scale of the challenge that the whole NHS faces that the Department of Health has written to us all earlier today setting out what it wants us to do to make sure the foundation trust sector plays its part in addressing this challenge. This letter sets out what we plan to do in Monitor in support of that. It describes four main initiatives.

First, this year we will be increasing our scrutiny of annual plans, including site visits and face-to-face meetings with a number of trusts. This is already under way.

Second, as part of our normal interventions at foundation trusts in breach of their licence for financial reasons, we will be requiring the adoption of best practice approaches to spend in a number of critical areas. Initially, this will cover spend on agency staff and management consultancy.

Third, we will be consulting shortly on some changes to our Risk Assessment Framework intended to provide a greater focus on the efficiency with which resources are used.

Finally, alongside TDA we will continue our efforts to make sure the best possible support is available to providers as you engage on this next phase of improvement.

As we embark together on this undoubtedly challenging agenda, I want to emphasise two critical points. First, all of us in Monitor recognise that driving further change and improvement at the front line is not easy. This is why I have placed so much emphasis in recent months on the need to ensure more and better support is available to you when and where you need it. Second, as we implement the

initiatives described in this letter, we will endeavour always to do so in the spirit of foundation trust policy: our interventions should be proportionate, value-adding and consistent with the notion of earned autonomy.

Reviewing annual plans

After NHS foundation trusts submitted their draft plans to us on 7 April we wrote to everyone with feedback on their plans and announcing that we would be carrying out a programme of site visits to some providers. We have now decided that our internal teams will visit the 43 foundation trusts with the largest individual deficits. These visits cover 85% of the forecast foundation trust sector gross deficit. They are already under way and the early results offer encouraging evidence that if we work with you to challenge your plans we can identify areas where further savings or efficiencies can be made. The process will be most exhaustive for foundation trusts who are requesting interim cash support from the Department of Health.

After each visit we will hold an executive-led challenge session with foundation trust boards. As far as possible we will aim to agree what revisions can be made to plans to make them more stretching, but we reserve the right to use our legal powers where agreement cannot be reached. We will monitor financial performance against these revised plans for the rest of the year in some detail, using our own staff as well as a small group of experienced NHS professionals where appropriate.

Adopting best practices in key areas of spend

Getting the best value out of every pound spent is a key objective of the foundation trust regime and local controls frameworks. While I continue to believe that local accountability for spending is the best way to maximise value for money in the long term, there is clear evidence that foundation trusts and the wider NHS are not achieving this today in some areas. As a result, we are introducing a Monitor approval process for some specific areas of spend in foundation trusts that are in breach of their licence for financial reasons. We will do this alongside the package of support in these areas outlined below and in a way designed to minimise the administrative burden on providers.

We have worked with NHS England and the NHS Trust Development Authority (TDA) to identify initial areas where we believe the NHS could obtain better value for money. We have identified agency costs and management consultancy costs and will introduce approval processes for both.

The approval process for management consultancy costs comes into force with immediate effect, covering all new contractual commitments by foundation trusts in breach of their licence, for spending greater than £50,000 (please note that internal and external audit, and local counter fraud services, are not included within the

approval process). We will require submission of a business case to Monitor for approval. Interim guidance on the requirements is attached to this letter as Annex A. The Annex also sets out the support we will be making available to assist providers in sourcing and managing consultants, and ensuring that we don't all pay several times over for the same technical advice.

The approval processes for agency costs will be introduced from 1 July for nursing, with complete implementation by 1 September. These approval processes will include: a trust-specific ceiling on the percentage of staff that can be employed on an agency basis; a cap on the maximum rates of agency pay for different types of staff; and a list of approved frameworks. There will be a mechanism for local managers to override these limits in the interests of patient safety, with a retrospective review. We will be engaging widely with foundation trusts on the best way to design and implement these controls so that we can collectively regain some control over our labour costs and become less reliant on expensive agency staff. This engagement will include the national series of events under way with TDA and DH on managing agency staff, and the improvement support set out below.

While these approval processes apply to foundation trusts in breach of their licence for financial reasons, all other foundation trusts are asked to comply voluntarily as we believe they should genuinely help trusts to make more effective use of their resources.

Modifying the Risk Assessment Framework

Monitor's *Risk Assessment Framework (RAF)* currently directly assesses the risk that foundation trusts might become insolvent, threatening the continuity of services to patients, and also includes general provisions on financial governance, requiring boards to operate efficiently and plan robustly.

However, the seeds of a solvency problem generally manifest as an income and expenditure deficit some time before a provider is at risk of running out of cash. In the recent past, and unlike earlier years, we have not used the RAF to signal that the point to act decisively is when a deficit is first reported or even anticipated. Unfortunately, several boards have failed to act until much later when financial problems have become more deep-rooted.

We have also found over the last two years that foundation trust plans have become much less robust, with many providers delivering weaker results than planned and thereby denying boards and Monitor the ability to use plans to identify and respond to risks.

We therefore intend to re-establish two previously used metrics: one tracking deficits and another the accuracy of planning.

We are also anxious to ensure that all boards are sharply focused on the overall efficiency with which resources are used in their trusts and so we will also be proposing to include in the RAF an explicit measure of value for money reinforced by a requirement to focus on efficiency in the *Foundation Trust Accounting Officer Memorandum*.

We will publish a consultation document later this week detailing these proposed changes to the RAF.

Supporting improvement

I recognise that delivering improvements in efficiency while maintaining quality becomes steadily more challenging as each year passes. However, there is still much evidence of considerable differences in practice across similar organisations. There is also scope for much more innovation and adoption of new ideas from other countries and other industries. I am anxious, therefore, to do all that we can to make sure the best possible support is available to provider organisations as you pursue these improvement opportunities.

There are some excellent examples of support already available in the NHS but we need many more. So, we are working with TDA to ensure there is a joined-up effort to take currently known best practice, and specifically that which will have a rapid impact, and work out how to deploy it at scale. We are going to build some of these capabilities ourselves in our new Provider Sustainability Directorate, developing ideas such as our Agency Intensive Support Team and making them available to all providers. We are also working with our partners to make sure that the existing resources spent by the NHS in this area are targeted at the right priorities. We will also be looking to high performing trusts to support others by applying their best practices to other providers in a scaled-up version of buddying.

Yours sincerely



David Bennett
Chief Executive

cc Stephen Hay, Managing Director of Provider Regulation
Jason Dorsett, Financial Reporting and Risk Director
Adam Sewell-Jones, Executive Director of Provider Sustainability
Regional Directors