

**To:** The Board

**For meeting on:** 28 May 2014

**Agenda item:** 6

**Report by:** Catherine Davies, Executive Director of Co-operation and Competition

**Report for:** Information

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**TITLE:** Co-operation and Competition Update

**Summary:**

This report provides the Board with information about the significant developments with regard to the work of the Co-operation and Competition directorate since the meeting of the Board on 30 April 2014.

**Recommendations:**

The Board is asked to note the update on the work of the Co-operation and Competition directorate.

**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).*

*It is anticipated that the recommendations of this paper are 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.*

## **Acquisition of Heatherwood and Wexham Park NHS Foundation Trust by Frimley Park Hospital NHS Foundation Trust**

1. The Competition and Markets Authority (CMA) cleared the proposed acquisition on 14 May 2014, concluding that the transaction will not substantially weaken competition so as to reduce the quality or range of healthcare services provided to patients. Monitor had advised the CMA, on 30 April 2014, that the proposed acquisition was the best available solution to the problems faced by Heatherwood and Wexham Park NHS Foundation Trust, and the most likely way to achieve improvements in services for patients. As the merger parties did not make any submissions to Monitor on the subject of relevant customer benefits, Monitor advised the CMA that it was not able to determine that any relevant customer benefits for the purposes of the Enterprise Act would arise. The full text of the CMA's decision is expected later this month and at that time Monitor will publish the advice it had provided to the CMA in April.

## **Potential pathology merger in North West England**

2. Monitor has accepted a pathology merger between two NHS trusts for review, as it meets its jurisdictional thresholds (the same thresholds applied by the CMA). This merger of pathology services between Southport and Ormskirk NHS Trust and St Helens and Knowsley Teaching Hospitals NHS Trust will be reviewed in accordance with the partnership agreement between the NHS Trust Development Authority (NHS TDA) and Monitor. It is anticipated that Monitor will advise the NHS TDA on the competitive effects of this transaction by 11 July 2014.

**Catherine Davies**  
**Executive Director of Cooperation and Competition**