

To: The Board

For meeting on: 29 January 2014

Agenda item: 4

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

Report for: Information

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 and the Co-operation and Competition Panel (CCP) since the meeting of the Board on 27 November 2013.

Recommendations:

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

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.

Overview of significant developments in December 2013

1. **Walk-in centres:** Monitor continues to work with stakeholders, including NHS England, the Department of Health (DH), and local Healthwatch and Health and Well Being Boards, to develop recommendations for the final report on walk-in centres. The intention is to publish this mid-to-late February, after the initial report on GP services. A paper to the outlining the proposed recommendations has been submitted for consideration later on the agenda for this meeting.
2. **Brighton and Sussex University Hospitals NHS Trust and Surrey and Sussex Healthcare NHS Trust Pathology merger:** Monitor has accepted a review of the proposed merger of pathology activities between Brighton and Sussex University Hospitals NHS Trust and Surrey and Sussex Healthcare NHS Trust. The process for this will be based on the two phase process used previously by the Co-operation and Competition Panel (CCP). It is anticipated that Phase I of the assessment should be completed by 12 March 2014. If, at the end of Phase I, Monitor decides there is a realistic prospect that the merger may give rise to material adverse effects on patients and taxpayers, the merger will proceed to Phase II which is expected to complete by 7 July 2014. The Board will be asked to sign off the relevant decision at the end of Phase I of the assessment (i.e. case conclusion or progression to Phase II) and, if required, the decision at the end of Phase II of the assessment. Following the review, Monitor will advise the NHS Trust Development Authority (NHS TDA) on the competition aspects of the transaction.
3. **Complaint by Thornbury Radiosurgery Centre Limited into the commissioning of radiosurgery services by NHS England:** Thornbury, a provider of Gamma Knife services, complained about NHS England's refusal to contract with it. Monitor opened its investigation in June 2013 and published its statement of issues at the end of August 2013. In October 2013 NHS England entered into a contract with Thornbury and in a response to Monitor's statement of issues suggested we consider the proportionality of continuing our investigation against our prioritisation framework. A paper on the proposed approach to be taken with regard to this case has been submitted for consideration later on the agenda for this meeting.
4. **GP Study:** Monitor plans to publish a paper that will summarise the information provided to it and set out proposed next steps. It is anticipated that this will be published at the end of January 2014.

Other points of interest

5. **S75 Regulations:** Monitor published the final enforcement and substantive guidance on the Procurement, Patient Choice and Competition Regulations together with a response to our consultation on the draft guidance on 19 December. A communications plan is in the process of being prepared to increase understanding of the guidance and this will be particularly targeted at commissioners.

Catherine Davies
Executive Director of Co-operation and Competition