

16 May 2014



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Dear colleague

## Understanding the financial challenge

We are writing to you in response to our initial findings from reviewing trusts' two year operational plans for 2015/16 and to respond to questions around the current planning process following engagement with the Foundation Trust Network (FTN).

As you know, there have been a number of major changes to the 2014/15 planning round. These are intended to help improve decision making across the system in the context of the unprecedented pressures facing the NHS. It is vital that individual Boards, Monitor and fellow regulators have a realistic view of the scale of the financial challenge faced over the next few years. This needs to be based on sound assumptions both of the level of pressures<sup>1</sup> faced and the likely impact of initiatives to address these pressures.

Analysis of previous Annual Plan Review submissions<sup>2</sup> has found that, in general, foundation trusts (FTs) had been reasonably accurate at forecasting the first year of the plan<sup>3</sup>, but that their expectations of sustained recovery in outer years have not been delivered. In fact, the operating earnings<sup>4</sup> of the FT sector have continued to erode.

In aggregate, the two year operational plans once again appear to demonstrate this pattern, with an expected continued decline in operating earnings in 2014/15 followed by a recovery in 2015/16. This profile appears to be somewhat optimistic, given the expectation that financial pressures will increase in 2015/16 and with little concrete evidence to suggest that delivered cost savings are likely to be substantially ahead of recent years.

We recognise that in the current environment financial planning is particularly difficult. There are heightened uncertainties as to commissioning intentions, the impact of the Better Care Fund and the ability to deliver large cost savings across the system year after year.

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<sup>1</sup> As part of our [Annual plan review 2014/15 guidance](#), we published, jointly with NHS England, our estimates of financial pressure and tariff efficiency for the next five years

<sup>2</sup> see [Meeting the needs of patients: Improving strategic planning in NHS foundation trusts](#)

<sup>3</sup> this finding does not include analysis of performance against plan in 2013/14 which was materially worse than plan

<sup>4</sup> Defined as earnings before interest, tax, depreciation and amortisation as a percentage of revenue.

This means that in all likelihood you will be basing projections on reasonable assumptions, only some of which will be supported by fully worked up plans.

However, both individual Boards and regulators need to have the best information to inform decision making. To this end, we are inviting FTs to consider if their projections for 2015/16 need to be revisited<sup>5</sup> and to encourage them to be realistic in their 5 year plan submission due at the end of June 2014. We will also be seeking further information as to how providers have engaged with the Better Care Fund as part of our work to review plans.

We know that there is some concern that showing a financial deficit or the true level of strategic challenge in your five-year plan may trigger a greater degree of regulatory scrutiny and intervention. We want to reassure you that our primary concern is that FT boards are basing decisions on the best and most realistic view of the future.

We will consider situations on a case by case basis. However, in general, Monitor will be most concerned by overly optimistic planning as a potential indicator of broader failures of governance. Where Boards have identified risks to sustainability at an early stage, we will want to engage in a supportive manner and discuss what can be done to help.

If you have any questions please contact your relationship team or [compliance@monitor.gov.uk](mailto:compliance@monitor.gov.uk).

Yours sincerely

Mark Turner

**Regional Director for London and APR**

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<sup>5</sup> more detail on the process is set out in section 1 of the annex

## **ANNEX**

### **1. Process for revision of 2015/16 financial plans**

We had originally communicated in our APR guidance that the two-year (2014/15 and 2015/16) financial plans submitted should not be changed and the template would be locked for the first two years for the five-year plan submissions. However, given the findings of the operational plan review set out in the main body of this letter and the importance of understanding the scale of the financial challenge we are inviting FTs to review and reconsider their planned outcomes for 2015/16 and to amend these if they believe revisions are required.

To facilitate this the financial template will be reissued to FTs with only 2014/15 locked. If revisions are made to 2015/16, please include in your written commentary:

- a summary of the rationale for resubmission of the 2015/16 plan; and
- detailed analysis of the changes between the original and revised 2015/16 plans, including bridging analysis of all material differences.

The decision as to whether the financial figures need revising is for each FT to make bearing in mind materiality and in many cases we do not expect any changes. However, Monitor will place more emphasis on performance against multiyear plans as part of our future assessment of governance for each trust.

### **2. Strategic plan summary**

We recognise that some FTs may be concerned about confidential information being placed in the public domain. Therefore as set out in the original planning guidance, we expect FTs to prepare a summarised version of the strategic plan, which will be published at the end of the annual review process.

This summary should cover a controlled amount of information, including a summary of the market analysis and context, strategic options, plans and supporting initiatives and an overview of the financial projections. Whilst we expect this to be a fairly short public engagement piece, it must be consistent with the substance of the full strategic document. We believe this approach allows both FTs and Monitor to meet our obligations of transparency and candour whilst protecting any confidential elements of the plan.

### **3. Timeline for publication of information**

We understand that following the submission of your two-year plans you are keen to know what we intend to do with the information provided, both in terms of coming back to you and publishing any information publicly. We have therefore set out below a clear timeline on both:

- June - Monitor publication of commentary on the sector forecasts in respect of the operational plan submissions;
- Early June - Communication with individual FTs as to our findings on their operational plan and any regulatory action we may be taking;

- June - Publication on Monitor website of each operational plan commentary document excluding confidential annexes in line with previous years;
- August - Monitor public board papers including commentary on the sector forecasts in respect of the strategic plan submissions;
- October - Communication with individual FTs as to our findings on their strategic plan and any regulatory action we may be taking; and
- Shortly following the individual findings - Publication on Monitor website of each strategic plan summary (as described of section 2 of this annex).

#### **4. Freedom of information**

We understand there may be concerns around what information may be subject to a request for information under the Freedom of Information Act 2000 (FOIA).

Each request for information made under FOIA that is received by Monitor is dealt with according to its own facts. We are therefore not able to state in advance of any request whether we will supply some or all of the requested information or whether we will consider that its disclosure is exempt under one or more of the exemptions provided by FOIA. However we have set out below an overview of our handling of such requests:

- i. FOIA applies to all recorded information held by Monitor (or held by a third party on Monitor's behalf). When a request is received, it is administered by the Legal Services directorate, which will allocate it to a specific lawyer.
- ii. The lawyer will then liaise with and offer advice to the members of Monitor staff who have the necessary expertise in and background knowledge of the information that has been requested. This approach ensures that each request is handled within the context of both detailed factual knowledge and expert legal advice.
- iii. Monitor cannot provide any guarantee that any information it holds will not be disclosed under FOIA because each request is decided on its own merits on a case-by-case basis. However, there are a number of exemptions within FOIA which might potentially apply to information provided to Monitor by a FT as part of the planning process, meaning that we would not then have to disclose that information.
- iv. For example, under section 41 of FOIA, if information is provided to Monitor in confidence and its disclosure, including to a FOIA requester, would constitute an actionable breach of confidence, Monitor can withhold this information (providing that there is not an overriding public interest in its disclosure).
- v. Similarly, under section 43 of FOIA, if the disclosure of information would, or would be likely to, prejudice commercial interests, including those of a FT, Monitor can withhold this information (providing, again, that there is not an overriding public interest in its disclosure).
- vi. It should be emphasised that these are just examples: there is a range of exemptions, any one or more of which may be appropriate, depending on the nature of the information requested under FOIA and the circumstances surrounding it.

- vii. It is also important to note that where Monitor receives a FOIA request for information that has been provided to us by a FT and we are provisionally of the view that we are legally required to release it in a non-anonymised and non-generic format, we will liaise with the trust in order to take its view. Whilst we are not bound by those views, we will, of course, take them into account before arriving at our final decision.
- viii. So, whilst there are no absolute guarantees, nevertheless, if a genuine detriment would flow from elements of a FT's planning process information being made public, it is quite likely that an exemption would apply, so allowing us legally to withhold that information.

## **5. Importance of collaborative working**

It is clear from planning process that plans are markedly better where providers and CCGs have undertaken robust engagement, best exemplified in the Better Care Fund planning process. We would therefore like to reiterate the importance of collaborative working during this planning process and the opportunity for the plans to cover, as much as possible, a cross-health and social care economy view.

Monitor have taken a number of steps during this planning round, for example aligning the submission timetable with that of NHS England and the NHS Trust Development Authority as well as publishing joint assumptions.