

MINUTES OF A SPECIAL MEETING OF THE MONITOR BOARD HELD ON TUESDAY 14 JANUARY 2014 AT 12.30PM AT WELLINGTON HOUSE, 133-155 WATERLOO ROAD, LONDON, SE1 8UG – SUBJECT TO APPROVAL AT THE MEETING OF THE BOARD ON 29 JANUARY 2014

Present:

David Bennett, Chairman and Chief Executive
Stephen Hay, Managing Director of Provider Regulation
Heather Lawrence, Non Executive Director
Adrian Masters, Managing Director of Sector Development
Keith Palmer, Non Executive Director (via telephone)
Sigurd Reinton, Non Executive Director
Stephen Thornton, Deputy Chairman and Non Executive Director

In attendance:

Miranda Carter, Executive Director of Assessment
Katherine Cawley, Enforcement Director
Catherine Davies, Executive Director of Co-operation and Competition
John Hall, Director of Economics
Jon Hibbs, Director of Media Relations
Matt Hopper, Senior Enforcement Manager
Toby Lambert, Director of Strategy and Policy
Ric Marshall, Director of Pricing
Sue Meeson, Executive Director of Strategic Communications
Kate Moore, Executive Director of Legal Services
Mike Shewan, Senior Enforcement Director
Georgia Toutziari, Committee Secretary
Carla Wilson, Legal Director

1. Welcome and apologies

1.1 Apologies for absence had been received from Philippa Harding (Board Secretary) and Fiona Knight (Executive Director of Organisation Transformation).

2. Declarations of interest

2.1 No interests were declared.

3. Private session - resolution (oral item)

3.1 The Chairman moved a resolution in order to move into private session to consider private items of business.

RESOLVED:

- 3.2 The Board resolved that representatives of the press and other members of the public should be excluded from the meeting, having regard to the confidential nature of the business to be transacted, publicity on which would be prejudicial to the public interest.

4. Mid Staffordshire NHS Foundation Trust - Monitor decision on the Trust Special Administrators' Final Report (BM/14/01(P))

- 4.1 The Board considered the paper which provided information on whether the Final Report of the Trust Special Administrators (TSAs) at Mid Staffordshire NHS Foundation Trust could be accepted based on the statutory criteria set out in the National Health Service Act 2006 (as amended). Monitor was required to determine whether it was satisfied that the recommended actions within this Final Report would secure the continued provision of the 'Location Specific Services' (LSS) at such levels as the commissioners had determined, so that it became unnecessary for the TSAs to remain in place. Monitor was also required to determine whether it was satisfied that the TSAs had carried out their administration duties. The Provider Regulation Executive (Enforcement) agreed at its meeting on 6 January 2014 that it was satisfied that the evidence supporting this determination was reasonable. The Board was asked to take the final determination on these matters. It was noted that, subject to the Board's satisfaction with regard to these issues, the TSAs' Final Report would then be provided to the Secretary of State for Health, who would also need to decide whether he was satisfied as to a number of specified matters, including whether Monitor had discharged its special administration functions.
- 4.2 Consideration was given to the statutory objective and other requirements of the TSA process, and to whether the paper contained reasonable evidence to enable the Board to determine whether these had been met with regard to the TSAs at Mid Staffordshire NHS Foundation Trust. With regard to the objective of the TSA, and given that no further definition of securing the continued provision of services was provided by statute, in the explanatory notes to the legislation or otherwise, it was noted that Monitor had been required to make a reasoned judgement on how to assess this. The tests used had been developed with the support of the Department of Health and aimed to ensure that the proposed recommendations protected the LSS and demonstrated continued financial and clinical sustainability. The Board noted that Monitor had satisfied itself that the TSAs' proposed future care model was financially robust, and had received assurances not only that the providers who would take over existing services were sustainable, but also that the impact of the acquisitions would be cost neutral for those providers. Further, independent medical and nursing panels had given advice and assurances that the proposed care model was clinically safe and sustainable. In taking its decision, the Monitor Board noted that it was appropriate to place significant weight both on this advice and the assurance from the NHS Trust Development Authority that local providers who were taking over the services currently delivered by the Trust were themselves financially sustainable. The mechanisms that were in place with regard to these assurances were also noted.
- 4.3 The Board was therefore satisfied that the action recommended in the final report would achieve the objective of the trust special administration. The Board also accepted that the TSAs had followed the requirements of the legislation in delivering their recommendations to Monitor, and was satisfied that they had carried out their administration duties.
- 4.4 Board members then discussed how the TSAs' Final Report would be best communicated to the public and noted the need to highlight that this was the most appropriate solution for the local health economy that could be found in the

circumstances and that the TSA needed to find a balance between maximising local access to services, ensuring the services were clinically safe and delivering services within the available funding.

- 4.5 Board members emphasised the importance of learning lessons from Monitor and the TSAs' experience at Mid Staffordshire NHS Foundation Trust. In this context, the importance of undertaking further work on how best to judge the long term financial sustainability of similarly troubled financial trusts was noted.

RESOLVED:

- 4.6 The Board resolved that, it was satisfied (as per Section 65KA(1) of the National Health Service Act 2006 (as amended)), that:
- i) the recommended actions would secure the continued provision of the Location Specific Services at such levels as the commissioners had determined, so that it became unnecessary for TSAs to remain in place; and
 - ii) the TSAs had carried out their administration duties.

Close