

To: The Board

For meeting on: 29 January 2014

Agenda item: 5

Report by: Miranda Carter, Executive Director of Assessment

Report for: Information

TITLE: Assessment Update

Summary:

- Three Phase 1 assessment reviews were completed in December. The Assessment team is planning to start Phase 1 assessment work on two acute trusts in January, and has started work on the pilot quality governance reviews at two aspirant trusts.
- Work is ongoing to develop an overarching “Well Led” governance framework which incorporates quality governance and board governance. The key objective of the project is to align the framework with the Care Quality Commission (CQC) inspection approach and Monitor’s approach to governance reviews.
- A project has been initiated to ensure that the recently published planning assumptions are appropriately implemented for assessments and transactions going forward. A key part of this project will be to develop a consistent approach to how the risks of the remaining affordability challenge are assessed.

Recommendations:

The Board is asked to note the report.

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).

This report is 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.

A. Developments

Update on “Well Led” framework

1. Following last month’s Assessment Update, an internal project has been established to design a single governance framework to judge “Well Led”. This includes (a) quality governance and (b) board governance. This presents an opportunity to update Monitor’s quality governance approach to reflect learnings from using the framework over the past three years and include new areas of good practice e.g. in relation to appropriate staffing levels. Consideration is also being given to further enhancements to the framework to cover strategic planning capability (following the release of the Annual Plan Review (APR) guidance) and good practice around operational improvement.
2. The framework will also be informed by the feedback received to Monitor’s consultation on governance reviews for NHS foundation trusts (NHS FTs) (published 13 January 2014) both from pilot review suppliers and from the sector. This will be received in March. A key consideration for the project will be to create an appropriate scoring mechanism against the “Well Led” framework to bring into the assessment process.
3. A key objective of the exercise is to create a framework which aligns with CQC’s inspection model and key lines of enquiry (especially in relation to its “Well Led” domain) and has the support of the NHS Trust Development Authority (NHS TDA). It is understood that CQC’s handbook is likely to be published in late March.
4. Monitor continues to work with CQC towards the shared objective of an aligned framework over the coming months.

CQC

5. The Assessment team is working with CQC to update the Memorandum of Understanding between the two organisations. This process will ensure that (i) the assessment requirements are updated for the new inspection regime and (ii) the requirement for a letter from CQC prior to the authorisation of NHS FTs is maintained.

NHS TDA

6. Monitor continues to engage with the NHS TDA to streamline the end-to-end assessment process. On 28 November 2013 the Assessment team met with the NHS TDA regional team to get a new form of applicant trust briefing on Kent Community Trust. It is planned to introduce a similar meeting for all future referrals. These briefings will include the sharing of more local health economy intelligence.
7. An agreement is in place with the NHS TDA to pilot Monitor’s early quality governance review on two trusts in the NHS TDA pipeline: Bradford District Care and Liverpool Community. The Bradford review has started and both reviews are scheduled to be completed by the end of March 2014. The reviews will be undertaken by Monitor staff, with results and feedback shared with the Trust, the NHS TDA and CQC. Trusts will then need to be inspected by CQC before being considered by the NHS TDA Board and potentially referred to Monitor for assessment. Monitor will undertake a quality governance review update as part of the assessment process, the scope of which will be informed by issues identified in the earlier review.

8. A discussion will take place with the NHS TDA to identify a potential next set of trusts for review and undertake an evaluation of the pilot process in early April to determine learnings.

Assessment Assumptions project

9. Following the release of the planning assumptions in December we have initiated a project to ensure that the assumptions are appropriately implemented for assessments and transactions going forward. A key part of this project will be to develop a consistent approach to how we assess the risks of the remaining affordability challenge (ie the gap after efficiency assumptions).
10. We propose to bring a paper back to Assessment Executive in February setting out our approach to this issue including our approach to the downside.

B. Update on assessments

Referrals

11. There have been no referrals this month.

Active assessments (exception reporting)

12. Two applications are planned to be reactivated in January 2014:
 - a. Royal Wolverhampton NHS Trust was inspected on 26-27 September 2013. An assessment team has been resourced to complete a phase one assessment from January 2014, subject to confirmation with the trust.
 - b. Royal Liverpool and Broadgreen NHS Trust. The Trust reached its private finance initiative (PFI) financial close in December 2013. The Trust was inspected on 25-27 November 2013 and associated quarterly risk summit scheduled for 5 February. An assessment team has been resourced from January 2014 to initially undertake a phase 1 review which may roll into a full assessment if we receive satisfactory assurance from the CQC in February.

Both of these trusts were previously deferred.

13. The executive challenge meetings for the Phase 1 assessments of Norfolk Community, Kent Community and Nottinghamshire Healthcare were concluded in early December 2013

Delayed, deferred and postponed trusts (exception reporting)

14. Royal United Hospital Bath NHS Trust was inspected by CQC on 4-6 December and a quarterly risk summit is scheduled for 4 February 2014. Monitor awaits the outcome of this inspection and summit prior to starting any assessment work.

Pipeline

15. An overview of the overall pipeline numbers is provided in Annex 2. This reflects the NHS TDA's latest available public forecast (November 2013). This indicated that 11 NHS trusts "are not considered sustainable in their current form and are therefore pursuing an organisational transaction". This leaves a total of 71 NHS trusts to be referred to Monitor in the future.
16. Monitor does not expect to receive any further referrals from the NHS TDA until CQC inspections have been completed.
17. Further details of the pipeline are provided in Annex B.

C. Update on transactions

18. Monitor's transaction approach continues to be developed and proposals to bring in a smarter threshold to trigger a detailed transaction review and to bring in an overall transaction risk rating were considered by the Provider Regulation Executive in December. It is planned that documents for consultation will be issued during January 2014.
19. Members of the Assessment team met with Tim Smart (CEO) and Jane Walters (Director of Corporate Affairs) from Kings College Hospital NHS Foundation Trust on 7 January 2014 to i) discuss Monitor's proposed new approach to transactions and ii) receive feedback on their experience with Monitor during the acquisition of the Princess Royal University Hospital. They were supportive of Monitor's proposed approach to transactions, particularly on Monitor's early engagement on mergers and acquisitions and said that they would feed back formally as part of the consultation. They were also very complimentary about the way that Monitor interacted with the Trust as part of the acquisition process and agreed that the enhanced monitoring requirements focussed on measuring cultural improvements would be helpful to them as well as Monitor. They commented that it may have been helpful to have a Monitor representative at the Board to Board meeting with specific clinical expertise. It is our expectation that, once appointed, the Medical Director will fulfil this role on Board to Board panels going forward.

Miranda Carter
Executive Director of Assessment

ANNEX A: Current status of trusts with Monitor for assessment

Active assessments					
Trust name	Status	Start	Exec meeting*	Decision	Indicative CQC inspection date
Royal Wolverhampton**	Active	Jan 14	tbc	tbc	CQC inspection completed. Phase one assessment
Royal Liverpool and Broadgreen**	Active	Jan 14	tbc	tbc	CQC inspection completed.

* Phase 1 of the revised assessment process will conclude with a meeting between members of the Trust Board and Monitor's Assessment Directors to discuss issues arising from the Phase 1 review.

** Trust was previously deferred. Assessment has been reactivated.

ANNEX B: Pipeline information

(i) Monitor pipeline

	As at 14 January 2014	As at 5 December 2013
Total Foundation Trusts (FTs)	147	147
<i>Monitor pipeline</i>		
Assessment decisions this month	-	-
Assessments in progress	2	3
Assessments paused post phase one assessments	6	3
Deferrals /postponements	7	9
Assessments awaiting start	-	-
<i>Total Monitor pipeline</i>	15	15
NHS TDA pipeline *		
NHS Trusts being reviewed for referral to Monitor **	13	13
Other NHS Trusts	59	59
Not in current organisational form ***	12	12
<i>Total NHS TDA pipeline</i>	84	84
Total number of trusts	246	246

* Based on NHS TDA estimates

** Based on NHS TDA July 2013 Board paper

*** South London Healthcare was dissolved in October 2013. Includes NHS Direct.

(ii) Analysis of pipeline

	Acute	MH	Ambulance	Community	Other	Total
NHS FTs	101	41	5	-	-	147
With Monitor	3	5	1	6	-	15
With NHS TDA – being reviewed for referral	3	4	1	5	-	13
With NHS TDA – pre referral review	41	6	3	9	-	59
Not as standalone NHS FTs	9***	1	-	1	1	12
Total	157	57	10	20		246

**ANNEX C: REPORT OF THE ASSESSMENT EXECUTIVE (AE) MEETING ON 21
JANUARY 2014**

The AE considered the update report to which this report is an annex and the authorisation of NHS mental health trusts providing high secure services as NHS FTs. Further information about this discussion can be found in the confidential annex to this report.